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SALUS POPULI SUPREMA LEX ESTO

"The welfare of the people shall be the supreme law."



ROBIN CARNAHAN
SECRETARY OF STATE

MISSOURI REGISTER

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SECRETARY OF STATE

ROBIN CARNAHAN

Administrative Rules Division

James C. Kirkpatrick State Information Center
600 W. Main
Jefferson City, MO 65101
(573) 751-4015

DIRECTOR

WAYLENE W. HILES

•

EDITORS

CURTIS W. TREAT

SALLY L. REID

ASSOCIATE EDITOR

DELANE JACQUIN

•

PUBLICATION TECHNICIAN

JACQUELINE D. WHITE

•

SPECIALIST

MICHAEL C. RISBERG

•

ADMINISTRATIVE ASSISTANT

ALISHA DUDENHOEFFER

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at <http://www.sos.mo.gov/adrules/pubsched.asp>

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RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation , i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division within the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—The most recent version of the statute containing the section number and the date.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety, or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons, and findings which support its conclusion that there is an immediate danger to the public health, safety, or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

Title 13—DEPARTMENT OF SOCIAL SERVICES Division 70—MO HealthNet Division Chapter 10—Nursing Home Program

EMERGENCY AMENDMENT

13 CSR 70-10.110 Nursing Facility Reimbursement Allowance.
The division is adding subsection (2)(O).

PURPOSE: *This amendment provides for a change in the Nursing Facility Reimbursement Allowance rate to twelve dollars and eleven cents (\$12.11) effective for dates of service July 1, 2012.*

EMERGENCY STATEMENT: *The Department of Social Services, MO HealthNet Division finds that this emergency amendment is necessary to preserve a compelling governmental interest of collecting state revenue in order to provide nursing facility services to individuals eligible for the MO HealthNet nursing facility program. This emergency amendment changes the Nursing Facility Reimbursement Allowance (NFRA) rate from eleven dollars and seventy cents (\$11.70) to twelve dollars and eleven cents (\$12.11) effective July 1, 2012. This emergency amendment is necessary to generate additional state matching funds to pay nursing facilities an increased reimbursement rate, also effective July 1, 2012. An early effective date is required because the emergency amendment is necessary to establish the NFRA assessment rate for State Fiscal Year (SFY) 2013. The NFRA needs to be established in order to collect the state revenue to ensure funds are available to pay for nursing facility services for MO HealthNet partici-*

pants in participating MO HealthNet nursing facilities with the funds appropriated for that purpose.

*This emergency amendment results in an additional NFRA assessment of \$6,102,984 for SFY 2013 which yields additional payments of \$16,014,127 to nursing facilities. The NFRA will raise approximately \$180,261,322 annually. The MO HealthNet Division also finds an immediate danger to public health, safety, and/or welfare which require emergency actions. If this emergency amendment is not enacted, there would be significant cash flow shortages causing a financial strain on Missouri nursing facilities which service approximately twenty-four thousand (24,000) individuals eligible for the MO HealthNet nursing facility program. This financial strain, in turn, will result in an adverse impact on the health and welfare of MO HealthNet participants in need of nursing facility services. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the *Missouri* and *United States Constitutions*. The MO HealthNet Division believes this emergency amendment to be fair to all interested parties under the circumstances. This emergency amendment was filed June 20, 2012, becomes effective July 1, 2012, and expires December 28, 2012.*

(2) NFRA Rates. The NFRA rates determined by the division, as set forth in subsection (1)(B) above, are as follows:

(M) Effective January 1, 2010, the NFRA will be nine dollars and twenty-seven cents (\$9.27) per patient occupancy day. The applicable quarterly survey shall be as defined in subsection (2)(K); *and*

(N) Effective October 1, 2011, the NFRA will be eleven dollars and seventy cents (\$11.70) per patient occupancy day. The applicable quarterly survey shall be as defined in subsection (2)(K); *and*

(O) Effective July 1, 2012, the NFRA will be twelve dollars and eleven cents (\$12.11) per patient occupancy day. The applicable quarterly survey shall be as defined in subsection (2)(K).

AUTHORITY: *sections 198.401, 198.403, 198.406, 198.409, 198.412, 198.416, 198.418, 198.421, 198.424, 198.427, 198.431, 198.433, 198.436, and 208.159, RSMo 2000, and sections 198.439, 208.153, and 208.201, RSMo Supp. [2010] 2011. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 21, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 15, 1994, effective July 30, 1995. For intervening history, please consult the Code of State Regulations. Emergency amendment filed June 20, 2012, effective July 1, 2012, expires Dec. 28, 2012. A proposed amendment covering this same material is published in this issue of the *Missouri Register*.*

Title 13—DEPARTMENT OF SOCIAL SERVICES Division 70—MO HealthNet Division Chapter 15—Hospital Program

EMERGENCY AMENDMENT

13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Services Reimbursement Methodology.
The division is amending section (3).

PURPOSE: *This amendment provides for the State Fiscal Year (SFY) 2013 trend factor to be applied in determining FRA funded hospital payments for SFY 2013.*

EMERGENCY STATEMENT: *The Department of Social Services, MO HealthNet Division finds that this emergency amendment is necessary*

to preserve a compelling governmental interest of collecting state revenue in order to provide health care to individuals eligible for the MO HealthNet program and for the uninsured. An early effective date is required because this emergency amendment establishes the Federal Reimbursement Allowance (FRA) funded hospital payments for dates of service beginning July 1, 2012, in regulation to ensure that quality health care continues to be provided to MO HealthNet participants and indigent patients at hospitals that have relied on MO HealthNet payments to meet those patients' needs. As a result, the MO HealthNet Division finds an immediate danger to public health and welfare which requires emergency actions. If this emergency amendment is not enacted, there would be significant cash flow shortages causing a financial strain on Missouri hospitals which serve over eight hundred sixty thousand (860,000) MO HealthNet participants plus the uninsured. This financial strain, in turn, will result in an adverse impact on the health and welfare of MO HealthNet participants and uninsured individuals in need of medical treatment. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the *Missouri* and *United States Constitutions*. The MO HealthNet Division believes this emergency amendment to be fair to all interested parties under the circumstances. The emergency amendment was filed June 20, 2012, becomes effective July 1, 2012, and expires December 28, 2012.

(3) Per Diem Reimbursement Rate Computation. Each hospital shall receive a MO HealthNet per diem rate based on the following computation.

(B) Trend Indices (TI). Trend indices are determined based on the four- (4-)/- quarter average DRI Index for DRI-Type Hospital Market Basket as published in *Health Care Costs* by DRI/McGraw-Hill for each State Fiscal Year (SFY) 1995 to 1998. Trend indices starting in SFY 1999 will be determined based on CPI Hospital indexed as published in *Health Care Costs* by DRI/McGraw-Hill for each State Fiscal Year (SFY).

1. The TI are—

- A. SFY 1994—4.6%
- B. SFY 1995—4.45%
- C. SFY 1996—4.575%
- D. SFY 1997—4.05%
- E. SFY 1998—3.1%
- F. SFY 1999—3.8%
- G. SFY 2000—4.0%
- H. SFY 2001—4.6%
- I. SFY 2002—4.8%
- J. SFY 2003—5.0%
- K. SFY 2004—6.2%
- L. SFY 2005—6.7%
- M. SFY 2006—5.7%
- N. SFY 2007—5.9%
- O. SFY 2008—5.5%
- P. SFY 2009—5.5%
- Q. SFY 2010—3.9%

R. SFY 2011—3.2%—The 3.2% trend shall not be applied in determining the per diem rate, Direct Medicaid payments, or uninsured payments.

S. SFY 2012—4.0%

T. SFY 2013—4.4%

2. The TI for SFY 1996 through SFY 1998 are applied as a full percentage to the OC of the per diem rate and for SFY 1999 the OC of the June 30, 1998, rate shall be trended by 1.2% and for SFY 2000 the OC of the June 30, 1999, rate shall be trended by 2.4%. The OC of the June 30, 2000, rate shall be trended by 1.95% for SFY 2001.

3. The per diem rate shall be reduced as necessary to avoid any negative Direct Medicaid payments computed in accordance with subsection (15)(B).

4. A facility previously enrolled for participation in the MO HealthNet Program, which either voluntarily or involuntarily terminates its participation in the MO HealthNet Program and which reenrolls the MO HealthNet Program, shall have its MO HealthNet rate determined in accordance with section (4).

AUTHORITY: sections 208.152, 208.153, and 208.201, RSMo Supp. [2010] 2011. This rule was previously filed as 13 CSR 40-81.050. Original rule filed Feb. 13, 1969, effective Feb. 23, 1969. For intervening history, please consult the Code of State Regulations. Emergency amendment filed June 20, 2012, effective July 1, 2012, expires Dec. 28, 2012. A proposed amendment covering this same material is published in this issue of the Missouri Register.

Title 13—DEPARTMENT OF SOCIAL SERVICES

Division 70—MO HealthNet Division

Chapter 15—Hospital Program

EMERGENCY AMENDMENT

13 CSR 70-15.110 Federal Reimbursement Allowance (FRA). The division is amending section (1).

PURPOSE: This amendment provides for the State Fiscal Year (SFY) 2013 trend factor to be applied to the inpatient and outpatient adjusted net revenues determined from the FRA fiscal year cost report.

EMERGENCY STATEMENT: The Department of Social Services, MO HealthNet Division finds that this emergency amendment is necessary to preserve a compelling governmental interest of collecting state revenue in order to provide health care to individuals eligible for the MO HealthNet program and for the uninsured. An early effective date is required because the emergency amendment is necessary to establish the Federal Reimbursement Allowance (FRA) assessment rate effective for dates of service beginning July 1, 2012, in regulation in order to collect the state revenue to ensure access to hospital services for MO HealthNet participants and indigent patients at hospitals that have relied on MO HealthNet payments to meet those patients' needs. The Missouri Partnership Plan between the Centers for Medicare and Medicaid Services (CMS) and the Missouri Department of Social Services (DSS), which establishes a process whereby CMS and DSS determine the permissibility of the funding source used by Missouri to fund its share of the MO HealthNet program, is based on a state fiscal year. The MO HealthNet Division also finds an immediate danger to public health and welfare which requires emergency actions. If this emergency amendment is not enacted, there would be significant cash flow shortages causing a financial strain on Missouri hospitals which serve over eight hundred sixty thousand (860,000) MO HealthNet participants plus the uninsured. This financial strain, in turn, will result in an adverse impact on the health and welfare of MO HealthNet participants and uninsured individuals in need of medical treatment. The FRA will raise approximately \$1.063 billion for SFY 2013 (July 1, 2012–June 30, 2013), of which \$114.3 million is attributable to the trend factor that is the subject of this emergency amendment. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the Missouri and United States Constitutions. The MO HealthNet Division believes this emergency amendment to be fair to all interested parties under the circumstances. The emergency amendment was filed June 20, 2012, becomes effective July 1, 2012, and expires December 28, 2012.

(1) Federal Reimbursement Allowance (FRA). FRA shall be assessed as described in this section.

(A) Definitions.

1. Bad debts—Amounts considered to be uncollectible from accounts and notes receivable that were created or acquired in providing services. Allowable bad debts include the costs of caring for patients who have insurance, but their insurance does not cover the particular service procedures or treatment rendered.

2. Base cost report—Desk-reviewed Medicare/Medicaid cost report. When a hospital has more than one (1) cost report with periods ending in the base year, the cost report covering a full twelve- (12-)/- month period will be used. If none of the cost reports covers a full twelve (12) months, the cost report with the latest period will be used. If a hospital's base cost report is less than or greater than a twelve- (12-)/- month period, the data shall be adjusted, based on the number of months reflected in the base cost report, to a twelve- (12-)/- month period.

3. Charity care—Those charges written off by a hospital based on the hospital's policy to provide health care services free of charge or at a reduced charge because of the indigence or medical indigence of the patient.

4. Contractual allowances—Difference between established rates for covered services and the amount paid by third-party payers under contractual agreements. The Federal Reimbursement Allowance (FRA) is a cost to the hospital, regardless of how the FRA is remitted to the MO HealthNet Division, and shall not be included in contractual allowances for determining revenues. Any redistributions of MO HealthNet payments by private entities acting at the request of participating health care providers shall not be included in contractual allowances or determining revenues or cost of patient care.

5. Department—Department of Social Services.

6. Director—Director of the Department of Social Services.

7. Division—MO HealthNet Division, Department of Social Services.

8. Engaging in the business of providing inpatient health care—Accepting payment for inpatient services rendered.

9. Federal Reimbursement Allowance (FRA)—The fee assessed to hospitals for the privilege of engaging in the business of providing inpatient health care in Missouri. The FRA is an allowable cost to the hospital.

10. Fiscal period—Twelve- (12-)/- month reporting period determined by each hospital.

11. Gross hospital service charges—Total charges made by the hospital for inpatient and outpatient hospital services that are covered under 13 CSR 70-15.010.

12. Hospital—A place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care for not fewer than twenty-four (24) hours in any week of three (3) or more nonrelated individuals suffering from illness, disease, injury, deformity, or other abnormal physical conditions; or a place devoted primarily to provide, for not fewer than twenty-four (24) hours in any week, medical or nursing care for three (3) or more nonrelated individuals. The term hospital does not include convalescent, nursing, shelter, or boarding homes as defined in Chapter 198, RSMo.

13. Hospital revenues subject to FRA assessment effective July 1, 2008—Each hospital's inpatient adjusted net revenues and outpatient adjusted net revenues subject to the FRA assessment will be determined as follows:

A. Obtain "Gross Total Charges" from Worksheet G-2, Line 25, Column 3, of the third prior year cost report (i.e., FRA fiscal year cost report) for the hospital. Charges shall exclude revenues for physician services. Charges related to activities subject to the Missouri taxes assessed for outpatient retail pharmacies and nursing facility services shall also be excluded. "Gross Total Charges" will be reduced by the following:

(I) "Nursing Facility Charges" from Worksheet C, Part I, Line 35, Column 6.

(II) "Swing Bed Nursing Facility Charges" from Worksheet G-2, Line 5, Column 1.

(III) "Nursing Facility Ancillary Charges" as determined

from the Department of Social Services, MO HealthNet Division, nursing home cost report. (Note: To the extent that the gross hospital charges, as specified in subparagraph (1)(A)13.A. above, include long-term care charges, the charges to be excluded through this step shall include all long-term care ancillary charges including skilled nursing facility, nursing facility, and other long-term care providers based at the hospital that are subject to the state's provider tax on nursing facility services.)

(IV) "Distinct Part Ambulatory Surgical Center Charges" from Worksheet G-2, Line 22, Column 2.

(V) "Ambulance Charges" from Worksheet C, Part I, Line 65, Column 7.

(VI) "Home Health Charges" from Worksheet G-2, Line 19, Column 2.

(VII) "Total Rural Health Clinic Charges" from Worksheet C, Part I, Column 7, Lines 63.50–63.59.

(VIII) "Other Non-Hospital Component Charges" from Worksheet G-2, Lines 6, 8, 21, 21.02, 23, and 24.

B. Obtain "Net Revenue" from Worksheet G-3, Line 3, Column 1. The state will ensure this amount is net of bad debts and other uncollectible charges by survey methodology.

C. "Adjusted Gross Total Charges" (the result of the computations in subparagraph (1)(A)13.A.) will then be further adjusted by a hospital-specific collection-to-charge ratio determined as follows:

(I) Divide "Net Revenue" by "Gross Total Charges"; and

(II) "Adjusted Gross Total Charges" will be multiplied by the result of part (1)(A)13.C.(I) to yield "Adjusted Net Revenue."

D. Obtain "Gross Inpatient Charges" from Worksheet G-2, Line 25, Column 1, of the most recent cost report that is available for a hospital.

E. Obtain "Gross Outpatient Charges" from Worksheet G-2, Line 25, Column 2, of the most recent cost report that is available for a hospital.

F. Total "Adjusted Net Revenue" will be allocated between "Net Inpatient Revenue" and "Net Outpatient Revenue" as follows:

(I) "Gross Inpatient Charges" will be divided by "Gross Total Charges";

(II) "Adjusted Net Revenue" will then be multiplied by the result to yield "Net Inpatient Revenue"; and

(III) The remainder will be allocated to "Net Outpatient Revenue."

G. The trend indices listed below will be applied to the apportioned inpatient adjusted net revenue and outpatient adjusted net revenue in order to inflate or trend forward the adjusted net revenues from the FRA fiscal year cost report to the current state fiscal year to determine the inpatient and outpatient adjusted net revenues subject to the FRA assessment.

(I) SFY 2009 = 5.50%

(II) SFY 2009 Missouri Specific Trend = 1.50%

(III) SFY 2010 = 3.90%

(IV) SFY 2010 Missouri Specific Trend = 1.50%

(V) SFY 2011 = 3.20%

(VI) SFY 2012 = 5.33%

(VII) SFY 2013 = 4.4%

14. Net operating revenue—Gross charges less bad debts, less charity care, and less contractual allowances times the trend indices listed in 13 CSR 70-15.010(3)(B).

15. Other operating revenues—The other operating revenue is total other revenue less government appropriations, less donations, and less income from investments times the trend indices listed in 13 CSR 70-15.010(3)(B).

AUTHORITY: sections 208.201 and 208.453, RSMo Supp. [2010] 2011, and section 208.455, RSMo 2000. Emergency rule filed Sept. 21, 1992, effective Oct. 1, 1992, expired Jan. 28, 1993. Emergency rule filed Jan. 15, 1993, effective Jan. 25, 1993, expired May 24, 1993. Original rule filed Sept. 21, 1992, effective June 7, 1993. For intervening history, please consult the Code of State Regulations.

Emergency amendment filed June 20, 2012, effective July 1, 2012, expires Dec. 28, 2012. A proposed amendment covering this same material is published in this issue of the Missouri Register.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 15—Hospital Program**

EMERGENCY AMENDMENT

13 CSR 70-15.160 Prospective Outpatient Hospital Services Reimbursement Methodology. The division is amending section (1).

PURPOSE: This amendment provides for a change to increase the prospective outpatient rate for federally-designated critical access hospitals and state-designated critical access hospitals for dates of service July 1, 2012, through June 30, 2013.

EMERGENCY STATEMENT: The Department of Social Services, MO HealthNet Division, finds that this emergency amendment is necessary to lessen the impact of the decreased reimbursement resulting from radiology services being paid on a Medicaid fee schedule for federally-designated critical access hospitals (CAHs) and state-designated CAHs to ensure radiology services are available to MO HealthNet participants and uninsured individuals in the rural areas served by the federally-designated and state-designated CAHs. The MO HealthNet Division also finds an immediate danger to public health, safety, and/or welfare which require emergency actions. The MO HealthNet Division determined the impact of reimbursing radiology services on a Medicaid fee schedule disproportionately affects federally-designated and state-designated CAHs and could result in radiology services no longer being available to MO HealthNet participants and uninsured individuals in the rural areas served by the federally-designated and state-designated CAHs. Federally-designated CAHs are defined in section 1820(c)(2)(B) of the Social Security Act which includes criteria such as: rural hospitals with no more than twenty-five (25) acute care inpatient beds that have federal limits on their lengths of stay, are located more than thirty-five (35) miles away from another hospital, and make available twenty-four- (24-) hour emergency care services. State-designated CAHs are defined in 13 CSR 70-15.010 (2)(H) and include hospitals which meet the federal definitions of both a rural referral center and a sole community provider and are adjacent to at least one (1) county that has a Medicaid-eligible population of at least twenty-five percent (25%) of the total population of the county or hospitals which are the sole community hospital located in a county that has a Medicaid population of at least twenty-five percent (25%) of the total population of the county. In order to ensure access to radiology services provided by federally-designated and state-designated CAHs, the MO HealthNet Division determined an increase to the prospective outpatient percentage rate for non-radiology services is necessary to lessen the impact of the decreased reimbursement resulting from the radiology fee schedule. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the *Missouri* and *United States Constitutions*. The MO HealthNet Division believes this emergency amendment to be fair to all interested parties under the circumstances and has discussed the proposed change with the hospital industry association and industry leaders. This emergency amendment was filed June 20, 2012, becomes effective July 1, 2012, and expires December 28, 2012.

(1) Prospective Outpatient Hospital Services Reimbursement Percentage for Hospitals Located Within Missouri.

(C) Outpatient Hospital Services Reimbursement Limited by

Rule.

1. Effective for dates of service September 1, 1985, and annually updated, certain clinical diagnostic laboratory procedures will be reimbursed from a Medicaid fee schedule which shall not exceed a national fee limitation.

2. Effective for service dates beginning October 1, 2011, and annually updated, the technical component of outpatient radiology procedures will be reimbursed from a Medicaid fee schedule. Medicaid fee schedule amounts will be based on one hundred twenty-five percent (125%) of the Medicare Physician fee schedule rate using Missouri Locality 01. The list of affected procedure codes and the Medicaid fee schedule rate for the technical component of outpatient radiology procedures will be published on the MO HealthNet website at www.dss.mo.gov/mhd beginning October 1, 2011.

3. Effective for service dates October 1, 2011, through June 30, 2012, hospitals which meet the federal definition of Critical Access Hospital (CAH) found in section 1820(c)(2)(B) of the Social Security Act will receive a five percent (5%) increase to their prospective outpatient payment percentage rate determined in accordance with subsection (1)(A).

4. Effective for service dates July 1, 2012, through June 30, 2013, hospitals which meet the federal definition of Critical Access Hospital (CAH) found in section 1820(c)(2)(B) of the Social Security Act will receive a five percent (5%) increase to their prospective outpatient payment percentage rate determined in accordance with subsection (1)(A).

5. Effective for service dates July 1, 2012, through June 30, 2013, hospitals which meet the state definition of Critical Access Hospital (CAH) defined in 13 CSR 70-15.010 will receive a three percent (3%) increase to their prospective outpatient payment percentage rate determined in accordance with subsection (1)(A).

[4.]6. Services of hospital-based physicians and certified registered nurse anesthetists shall be billed on a CMS-1500 professional claim form and reimbursed from a Medicaid fee schedule or the billed charge, if less. The CMS-1500 professional claim form is incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at www.dss.mo.gov/mhd, November 1, 2010. This rule does not incorporate any subsequent amendments or additions.

[5.]7. Outpatient hospital services provided for those recipients having available Medicare benefits shall be reimbursed by Medicaid to the extent of the deductible and coinsurance as imposed under Title XVIII.

[6.]8. Effective for payment dates beginning October 1, 2010, reimbursement of Medicare/Medicaid crossover claims (crossover claims) for Medicare Part B and Medicare Advantage/Part C outpatient hospital services with dates of service on or after January 1, 2010, except for public hospitals operated by the Department of Mental Health (DMH), shall be determined as follows:

A. Crossover claims for Medicare Part B outpatient hospital services in which Medicare was the primary payer and the MO HealthNet Division (MHD) is the payer of last resort for cost-sharing (i.e., coinsurance, copay, and/or deductibles) must meet the following criteria to be eligible for MHD reimbursement:

(I) The crossover claim must be related to Medicare Part B outpatient hospital services that were provided to MO HealthNet participants also having Medicare Part B coverage; and

(II) The crossover claim must contain approved outpatient hospital services which MHD is billed for cost-sharing; and

(III) The Other Payer paid amount field on the claim must contain the actual amount paid by Medicare. The MO HealthNet provider is responsible for accurate and valid reporting of crossover claims submitted to MHD for payment regardless of how the claim is submitted. Providers submitting crossover claims for Medicare Part B outpatient hospital services to MHD must be able to provide documentation that supports the information on the claim upon request. The documentation must match the information on the

Medicare Part B plan's remittance advice. Any amounts paid by MHD that are determined to be based on inaccurate data will be subject to recoupment;

B. Crossover claims for Medicare Advantage/Part C (Medicare Advantage) outpatient hospital services in which a Medicare Advantage plan was the primary payer and MHD is the payer of last resort for cost-sharing (i.e., coinsurance, copay, and/or deductibles) must meet the following criteria to be eligible for MHD reimbursement:

(I) The crossover claim must be related to Medicare Advantage outpatient hospital services that were provided to MO HealthNet participants who also are either a Qualified Medicare Beneficiary (QMB Only) or Qualified Medicare Beneficiary Plus (QMB Plus); and

(II) The crossover claim must be submitted as a Medicare UB-04 Part C Professional Crossover claim through the MHD online [Internet] billing system; and

(III) The crossover claim must contain approved outpatient hospital services which MHD is billed for cost-sharing; and

(IV) The Other Payer paid amount field on the claim must contain the actual amount paid by the Medicare Advantage plan. The MO HealthNet provider is responsible for accurate and valid reporting of crossover claims submitted to MHD for payment. Providers submitting crossover claims for Medicare Advantage outpatient hospital services to MHD must be able to provide documentation that supports the information on the claim upon request. The documentation must match the information on the Medicare Advantage plan's remittance advice. Any amounts paid by MHD that are determined to be based on inaccurate data will be subject to recoupment;

C. MHD reimbursement for approved outpatient hospital services. MHD will reimburse seventy-five percent (75%) of the allowable cost-sharing amount; and

D. MHD will continue to reimburse one hundred percent (100%) of the allowable cost-sharing amounts for outpatient services provided by public hospitals operated by DMH as set forth above in paragraph (1)(C)4.

AUTHORITY: sections 208.152, 208.153, and 208.201, RSMo Supp. 2011. Emergency rule filed June 20, 2002, effective July 1, 2002, expired Feb. 27, 2003. Original rule filed June 14, 2002, effective Jan. 30, 2003. For intervening history, please consult the Code of State Regulations. Emergency amendment filed June 20, 2012, effective July 1, 2012, expires Dec. 28, 2012. A proposed amendment covering this same material is published in this issue of the Missouri Register.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 15—Hospital Program**

EMERGENCY AMENDMENT

13 CSR 70-15.220 Disproportionate Share Hospital Payments.
The division is amending sections (2), (5), (6), (9), and (10).

PURPOSE: This amendment provides for the following changes: sections (2) and (5) were changed to ensure interim Disproportionate Share Hospital (DSH) payments are not made to federally-deemed DSH hospitals and new facilities in excess of their estimated hospital-specific DSH limit, and section (5) also was changed to clarify how a hospital is to notify MO HealthNet if they elect to receive a upper payment limit payment in lieu of a DSH payment; section (6) was changed to allow Department of Mental Health (DMH) hospitals to adjust interim DSH payments based on the results of a DMH state DSH survey; section (9) was changed to reflect how new facilities' interim DSH payments would be determined to ensure interim DSH payments are not made in excess of their estimated hospital-specific

DSH limit; and section (10) was changed to clarify the definition of IMD DSH allotment and to change the definition of the uninsured costs that can be included in determining the hospital-specific DSH limit by allowing uninsured costs to include the cost of each service furnished to an individual who had no health insurance or other source of third party coverage for that service. The change in the uninsured definition is being made to be consistent with the proposed change in the federal definitions impacting the hospital-specific DSH limit proposed under 42 CFR 447.295.

*EMERGENCY STATEMENT: The Department of Social Services, MO HealthNet Division by rule and regulation must define the reasonable costs, manner, extent, quantity, quality, charges, and fees of medical assistance. This emergency amendment will ensure payment to Missouri hospitals providing health care to approximately eight hundred sixty thousand (860,000) Missourians eligible for the MO HealthNet program plus the uninsured. This emergency amendment must be implemented on an emergency basis because it allows the state to make Disproportionate Share Hospital (DSH) payments for state fiscal year (SFY) 2013 considering the expanded federal definition of the cost of the uninsured in the proposed rule 42 CFR 447.295 published in the **Federal Register** on January 18, 2012, and for the payments to be made on a timely basis, beginning July 1, 2012. This regulation ensures that quality health care continues to be provided to MO HealthNet participants and the uninsured at hospitals that have relied on MO HealthNet payments to meet those patients' needs. As a result, the MO HealthNet Division finds an immediate danger to public health and welfare which requires emergency actions. The MO HealthNet program has a compelling governmental interest in providing continued cash flow for inpatient hospital services. A proposed amendment, which covers the same material, was published in the **Missouri Register** May 1, 2012 (37 MoReg 681-684), and no comments were received. This emergency amendment limits its scope to the circumstances creating the emergency and complies with the protections extended by the **Missouri and United States Constitutions**. The MO HealthNet Division believes this emergency amendment to be fair to all interested parties under the circumstances. The emergency amendment was filed June 20, 2012, becomes effective July 1, 2012, and expires December 28, 2012.*

(2) Federally-Deemed DSH Hospitals.

(A) The state must pay disproportionate share payments to hospitals that meet specific obstetric requirements and have either a MIUR at least one (1) standard deviation above the state mean or a LIUR greater than twenty-five percent (25%). **The state shall not make DSH payments in excess of each hospital's estimated hospital-specific DSH limit.**

1. Obstetric requirements and exemptions.

A. Hospitals must have two (2) obstetricians, with staff privileges, who agree to provide non-emergency obstetric services to Medicaid eligibles. Rural hospitals, as defined by the federal Executive Office of Management and Budget, may qualify any physician with staff privileges as an obstetrician.

B. Hospitals are exempt from the obstetric requirements if the facility did not offer non-emergency obstetric services as of December 21, 1987.

C. Hospitals are exempt if inpatients are predominantly under eighteen (18) years of age.

2. MIUR calculations.

A. As determined from the fourth prior year desk-reviewed cost report, the facility has a MIUR of at least one (1) standard deviation above the state's mean MIUR for all Missouri hospitals.

B. The MIUR is calculated as follows:

(I) The MIUR will be expressed as the ratio of total Medicaid days (TMD) provided under a state plan divided by the provider's total number of inpatient days (TNID).

(II) The state's mean MIUR will be expressed as the ratio of the sum of the total number of the Medicaid days for all Missouri

hospitals divided by the sum of the total patient days for the same Missouri hospitals. Data for hospitals no longer participating in the program will be excluded.

$$\text{MIUR} = \frac{\text{TMD}}{\text{TNID}}$$

3. LIUR calculations.

A. As determined from the fourth prior year desk-reviewed cost report, the LIUR shall be the sum (expressed as a percentage) of the fractions, calculated as follows:

(I) Total MO HealthNet patient revenues (TMPR) paid to the hospital for patient services under a state plan plus the amount of the cash subsidies (CS) directly received from state and local governments, divided by the total net revenues (TNR) (charges, minus contractual allowances, discounts, and the like) for patient services plus the CS; and

(II) The total amount of the hospital's charges for patient services attributable to charity care (CC) (care provided to individuals who have no source of payment, third-party, or personal resources) less CS directly received from state and local governments in the same period, divided by the total amount of the hospital's charges (THC) for patient services. The total patient charges attributed to CC shall not include any contractual allowances and discounts other than for indigent patients not eligible for MO HealthNet under a state plan.

$$\text{LIUR} = \frac{\text{TMPR} + \text{CS}}{\text{TNR} + \text{CS}} + \frac{\text{CC} - \text{CS}}{\text{THC}}$$

(5) Disproportionate Share Hospital (DSH) Interim Payments.

(B) The interim DSH payments will be calculated as follows:

1. The estimated hospital-specific DSH limit is calculated as follows:

A. Estimated Medicaid net cost from the state DSH survey.

B. Less estimated Medicaid supplemental payments calculated by MHD in accordance with 13 CSR 70-15.010.

C. Equals estimated Medicaid uncompensated care cost.

D. Plus estimated uninsured uncompensated care cost from the state DSH survey.

E. Equals estimated hospital-specific DSH limit./.;

2. The estimated uncompensated care costs potentially eligible for MHD interim DSH payments excludes out-of-state DSH payments and is calculated as follows:

A. Estimated hospital-specific DSH limit./.;

B. Less estimated out-of-state (OOS) DSH payments./.;

C. Equals estimated uncompensated care cost (UCC) net of OOS DSH payments./.;

3. Hospitals determined to have a negative estimated UCC net of OOS DSH payments (payments exceed costs) will not receive interim DSH payments because they are expected to exceed their estimated hospital-specific DSH limit *[unless they meet the requirement in subsection (5)(C).]; and*

4. Qualified DSH hospitals determined to have a positive estimated UCC net of OOS DSH payments (costs exceed payments) *[and hospitals that meet the requirements of subsection (5)(C)]* will receive interim DSH payments. The interim DSH payments are subject to the federal DSH allotment and the estimated hospital-specific DSH limits. The interim DSH payments will be calculated as follows:

A. Interim DSH payments to qualified DSH hospitals determined to have a positive estimated UCC net of OOS DSH payments will be calculated as follows:

(I) Up to one-hundred percent (100%) of the available federal DSH allotment will be allocated based on each hospital's positive estimated UCC net of OOS DSH payments to the total positive

estimated UCC net of OOS DSH payments; and

(II) The allocated amount will then be reduced by one percent (1%) for hospitals that do not contribute through a plan that is approved by the director of the Department of Health and Senior Services to support the state's poison control center and the Primary Care Resource Initiative for Missouri (PRIMO) and Patient Safety Initiative[; and].

[B. Interim DSH payments to federally-deemed hospitals are set forth in subsection (5)(C).]

(C) *[Federally-deemed hospitals will receive the nominal DSH payment of five thousand dollars (\$5,000) and the greater of their upper payment limit payment or their estimated interim DSH payment as calculated above in subsection (5)(B). Except for federally-deemed hospitals, hospitals]* **Hospitals** may elect to receive an upper payment limit payment as defined in 13 CSR 70-15.230 in lieu of DSH payments. **Hospitals that elect to receive an upper payment limit payment rather than a DSH payment must submit a request to the MO HealthNet Division on an annual basis.**

(D) Disproportionate share payments will coincide with the semi-monthly claim payment schedule *[with the exception of the federally-deemed hospitals who will be paid the nominal DSH payment of five thousand dollars (\$5,000) at the end of the SFY].*

(E) New facilities **that do not have a Medicare cost report on which to base the state DSH survey** will be paid *[based on]* the lesser of the estimated hospital-specific DSH limit based on the estimated state DSH survey or the industry average estimated interim DSH payment. The industry average estimated interim DSH payment as determined from subsection (5)(B) is calculated as follows:

1. Hospitals receiving interim DSH payments shall be divided into quartiles based on total beds;

2. DSH payments shall be individually summed by quartile and then divided by the total beds in the quartile to yield an average interim DSH payment per bed; and

3. The number of beds for the new facility shall be multiplied by the average DSH payment per bed.

(6) Department of Mental Health Hospital (DMH) DSH Adjustments and Payments.

(B) Beginning in SFY 2012, due to structural changes occurring at the DMH facilities, interim DSH payments will be based on the third prior base year cost report trended to the current SFY adjusted for the federal reimbursement allowance (FRA) assessment paid by DMH hospitals. **The interim DSH payments calculated using the third prior base year cost report may be revised based on the results of a DMH state DSH survey.** Additional adjustments may be done based on the results of the federally-mandated DSH audits as set forth below in subsection (7)(A).

(9) State DSH Survey Reporting Requirements.

(A) Each hospital participating in the MO HealthNet program shall submit a state DSH survey prescribed by the state MO HealthNet agency and must be submitted by December 31 of each year. However, a corrected survey may be accepted if it is supported by documentation and the state determines the correction is appropriate and has a material impact on the survey results. The state DSH survey for each interim DSH payment period shall be completed based on the third prior year Medicare cost report *[and]* adjusted *[for inflationary trends and volume adjustments to]* **to reflect anticipated operations for the interim DSH payment period. The historical Medicare cost report data may be adjusted for inflationary trends, volume adjustments, changes in reimbursement methodology, and/or other business decisions (i.e., expanded or terminated services, etc.)** For example, the state DSH survey that will be used to determine SFY 2013 interim DSH payments will be based on the state DSH survey completed using the 2010 Medicare

cost report data adjusted by the hospital to 2013.

1. If a new facility does not have a third prior year Medicare cost report, the state DSH survey shall be completed using the second prior year Medicare cost report, if available, adjusted to reflect anticipated operations for the interim DSH payment period.

2. If a new facility does not have a second prior year Medicare cost report, the state DSH survey shall be completed using the prior year Medicare cost report, if available, adjusted to reflect anticipated operations for the interim DSH payment period.

3. If a new facility does not have a prior year Medicare cost report, the state DSH survey shall be completed using facility projections to reflect anticipated operations for the interim DSH payment period. Interim DSH payments determined from this state DSH survey are limited to the industry average estimated interim DSH payment as set forth in subsection (5)(E).

(10) Definitions.

(C) Estimated uninsured net cost. Estimated uninsured net cost is the cost of providing inpatient and outpatient hospital services to individuals without *[no]* health insurance or other *[source of]* third party *[reimbursement]* coverage for the *[inpatient and outpatient]* hospital services they receive during the year less uninsured payments received on a cash basis for the applicable Medicaid state plan year. *[If the individual had health insurance, even if the third-party insurer did not pay, those services are insured and cannot be included as uninsured costs.]* The costs are to be calculated using Medicare cost report costing methodologies described in this rule and should not include costs for services that were denied for any reason. The estimated uninsured net cost is calculated as the sum of the following estimated data reported on the state DSH survey.

1. Uninsured inpatient net cost.
2. Uninsured outpatient net cost.

(H) Individuals without health insurance or other third party coverage.

1. Individuals who have no health insurance or other source of third party coverage for the specific inpatient or outpatient hospital services they received during the year can be considered uninsured. As set forth in CMS' proposed rule published in the *Federal Register*, January 18, 2012, for 42 CFR part 447.295, a service-specific approach must be used to determine whether an individual is uninsured. The service-specific coverage determination can occur only once per individual per service provided and applies to the entire service, including all elements, as that service, or similar services, would be defined by MO HealthNet. Determination of an individual's third party coverage status is not dependent on receipt of payment by the hospital from the third party.

2. The costs for inpatient and outpatient hospital services provided to individuals without health insurance or other third party coverage can be considered uninsured and included in calculating the hospital-specific DSH limit.

3. The following individuals shall be considered uninsured:

A. Individuals whose benefit package does not cover the hospital service received. If the service is not included in an individual's health benefits coverage through a group health plan or health insurer, and there is no other legally liable third party, the individual is considered uninsured; or

B. Individuals who have reached lifetime insurance limits for certain services or with exhausted insurance benefits at the time of service. When a lifetime or annual coverage limit is imposed by a third party payer, specific services beyond the limit would not be within the individual's health benefit package from that third party payer and would be considered uninsured; or

C. For American Indians/Alaska Natives, Indian Health Services (IHS) and tribal coverage is only considered third party

coverage when services are received directly from IHS or tribal health programs or when IHS or a tribal health program has authorized coverage through the contract health service program.

4. The costs associated with the following shall not be included as uninsured costs:

A. Bad debts or unpaid co-insurance/deductibles for individuals with third party coverage. Administrative denials of payment or requirements for satisfaction of deductible, copayment, or coinsurance liability do not affect the determination that a specific service is included in the health benefits coverage; and

B. Prisoners. Individuals who are inmates in a public institution or are otherwise involuntarily in secure custody as a result of criminal charges are considered to have a source of third party coverage. However, an individual can be included as uninsured if a person has been released from secure custody and is referred to the hospital by law enforcement or corrections authorities and is admitted as a patient rather than an inmate to the hospital.

5. These definitions, and the resulting uninsured costs includable in calculating the hospital-specific DSH limit, are subject to change based on any changes that may be incorporated in the final publication of 42 CFR 447.295.

[(H)](I) Institution for Mental Diseases (IMD) DSH allotment. The IMD DSH allotment is a portion of the state-wide DSH allotment and is *[payable only]* the maximum amount set by the federal government that may be paid to IMD hospitals. Any unused IMD DSH allotment not paid to IMD hospitals for any plan year may be paid to hospitals that are under their projected hospital-specific DSH limit.

[(I)](J) Inpatient and outpatient hospital services. For purposes of determining the estimated hospital-specific DSH limit and the actual hospital-specific DSH limit, the inpatient and outpatient hospital services are limited to inpatient and outpatient hospital services included in the approved Missouri Medicaid State Plan.

(K) Lifetime or annual health insurance coverage limit. An annual or lifetime limit, imposed by a third party payer, that establishes a maximum dollar value, or maximum number of specific services, on a lifetime or annual basis, for benefits received by an individual.

[(J)](L) Longfall. The longfall is the total amount a hospital has been paid (including all DSH payments) in excess of their hospital-specific DSH limit and is considered an overpayment subject to recoupment. The source for this calculation is as follows:

1. Actual longfall. The actual longfall is based on the annual independent DSH audit; and
2. Estimated longfall. The estimated longfall is calculated by the state using data from the state DSH survey, Medicaid supplemental payments, and data provided in the most recent independent DSH audit, if applicable.

[(K)](M) Medicaid state plan year. Medicaid state plan year coincides with the twelve- (12-)/- month period for which a state calculates DSH payments. For Missouri, the Medicaid State Plan Year coincides with its state fiscal year (SFY) and is July 1 through June 30.

[(L)](N) Medicaid supplemental payments. For purposes of determining estimated hospital-specific DSH limits, the Medicaid supplemental payments include: Direct Medicaid Add-On, Graduate Medical Education (GME), Enhanced GME, Children's Outliers, Trauma Outliers, and any cost settlements. Upper payment limit (UPL) supplemental payments will be included in addition to the above Medicaid supplemental payments for purposes of determining the hospital-specific DSH limit in the annual independent DSH audit. Any supplemental payments made with state only funds are not required to be offset in determining the hospital-specific DSH limit.

[(M)](O) Medicare cost reporting methodologies. Medicaid and uninsured costs will be determined utilizing Medicare cost report (form 2552-96) methodologies. If the Medicare 2552-96 is superseded by an alternate Medicare developed cost reporting tool during

a Medicaid state plan year, that tool must be used for the Medicaid state plan year. Based on these methodologies, the costs included in the DSH payment calculation will reflect the Medicaid and uninsured portion of total allowable costs from the Medicare cost report. Costs such as the Missouri Medicaid hospital provider tax (federal reimbursement allowance or FRA) are recognized as allowable costs for Medicaid and DSH program purposes and apportioned to Medicaid, uninsured, Medicare, and other payers following the cost finding principles included in the costs report, applicable instructions, regulations, and governing statutes.

[(N)](P) New facility. A new hospital determined in accordance with 13 CSR 70-15.010 without a base year cost.

[(O)](Q) Out-of-state DSH payments. DSH payments received by a Missouri hospital from a state other than Missouri.

[(P)](R) Section 1011 payments. Section 1011 payments are made to a hospital for costs incurred for the provision of specific services to specific aliens to the extent that the provider was not otherwise reimbursed for such services. Because a portion of the Section 1011 payments are made for uncompensated care costs that are also eligible under the hospital-specific DSH limit, a defined portion of the Section 1011 payments must be recognized as an amount paid on behalf of those uninsured.

[(Q)](S) Shortfall. The shortfall is the hospital-specific DSH limit in excess of the total amount a hospital has been paid (including all DSH payments). The source for this calculation is as follows:

1. Actual shortfall. The actual shortfall is based on the annual independent DSH audit; and

2. Estimated shortfall. The estimated shortfall is calculated by the state using data from the state DSH survey, Medicaid supplemental payments, and data provided in the most recent independent DSH audit, if applicable.

[(R)](T) State DSH survey. The state DSH survey was designed to reflect the standards of calculating uncompensated care cost established by the federal DSH rules in determining hospital-specific DSH limits. The DSH survey is also similar to the DSH survey that is utilized by the independent auditor during the annual independent DSH audit performed in accordance with the federally-mandated DSH audit rules. The blank state DSH survey is referred to as the state DSH survey template. The following state DSH survey templates and instructions are incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. This rule does not incorporate any subsequent amendments or additions.

1. Version 1 (9/10), also referred to as the 2011 state DSH survey, was used to calculate the SFY 2011 DSH payment adjustments set forth in section (4) and the SFY 2012 interim DSH payments set forth in section (5).

2. Version 2 (9/11) or Version 3 (2/12). **The hospital may elect to complete either Version 2 (9/11) or Version 3 (2/12) on which its SFY 2013 interim DSH payments will be [used to calculate interim DSH payments beginning with SFY 2013 as set forth in section (5)] calculated.** The survey shall be referred to as the SFY to which payments will relate. For example, the survey used to determine interim DSH payments for SFY 2013 will be referred to as the 2013 state DSH survey.

3. Version 3 (2/12) will be used to calculate interim DSH payments beginning with SFY 2014 as set forth in section (5). **The survey shall be referred to as the SFY to which payments will relate.**

[(S)](U) Taxable revenue. Taxable revenue is the hospital's total inpatient adjusted net revenues plus outpatient adjusted net revenues determined in accordance with 13 CSR 70-15.110, paragraph (1)(A)13.

[(T)](V) Uncompensated care costs (UCC). The uncompensated care costs eligible for consideration in determining the hospital-specific DSH limit are calculated by reducing costs incurred in furnishing inpatient and outpatient hospital services to the Medicaid and

uninsured populations, reduced by revenues received under Medicaid (not including DSH payments) and Section 1011 payments. The costs are to be calculated using Medicare cost report costing methodologies described in this rule and should not include costs for services that were denied for any reason. For purposes of this calculation the Medicaid and uninsured populations include:

1. The Medicaid population includes all Medicaid eligible individuals including dual eligible and managed care participants; and

2. The uninsured population includes individuals without *[no] health insurance or other source of third-party [reimbursement for the inpatient and outpatient services they receive] coverage as defined in this rule, consistent with 42 CFR part 447. [If the individual had health insurance, even if the third-party insurer did not pay, those services are insured and cannot be included as uninsured costs.]*

[(U)](W) Uninsured revenues. Payments received on a cash basis that are required to be offset against the uninsured cost to determine the uninsured net cost include any amounts received by the hospital, by or on behalf of, either self-pay or uninsured individuals during the SFY under audit.

AUTHORITY: sections 208.152, 208.153, and 208.201, RSMo Supp. [2010] 2011, and section 208.158, RSMo 2000. Emergency rule filed May 20, 2011, effective June 1, 2011, expired Nov. 28, 2011. Original rule filed May 20, 2011, effective Jan. 30, 2012. Amended: Filed April 2, 2012. Emergency amendment filed June 20, 2012, effective July 1, 2012, expires Dec. 28, 2012.

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2011.

EXECUTIVE ORDER 12-06

WHEREAS, the State of Missouri has experienced a prolonged period of record heat and low precipitation and this weather pattern is expected to continue into the future; and

WHEREAS, these weather conditions have created a significant risk of fire in many parts of the state; and

WHEREAS, fires involving vegetation, grass and timber have occurred in recent days; and

WHEREAS, the state will continue to be proactive where the health and safety of the citizens of Missouri are concerned; and

WHEREAS, the resources of the State of Missouri may be needed to assist affected jurisdictions and to help relieve the condition of distress and hazard to the safety and welfare of our fellow Missourians.

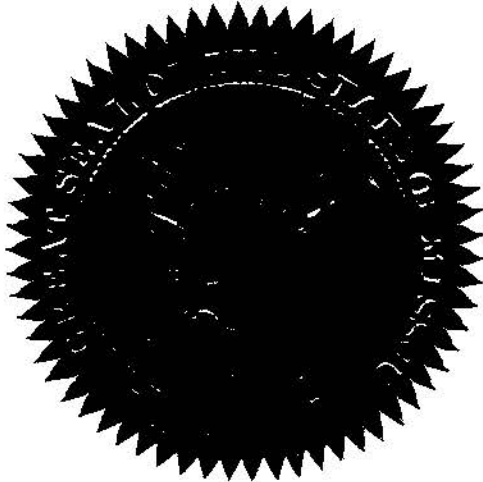
NOW, THEREFORE, I, JEREMIAH W. (JAY) NIXON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, do hereby direct that the Missouri State Emergency Operations Center be activated.

I further direct the State Emergency Management Agency, State Fire Marshal, and such other state agencies as determined appropriate to address the fire danger affecting this state by maintaining and coordinating communications with local authorities affected by fire danger, continuing planning and preparation efforts including the identification and readying of firefighting and public safety assets and personnel, and providing such assistance needed by local authorities.

I further order the State Fire Marshal to coordinate the deployment of fire resources through the mutual aid system.

I further order the Adjutant General to prepare plans to respond to fire related situations and to identify units, personnel and assets appropriate for those circumstances and to place such units on notice for possible activation should the need arise.


This order shall terminate on July 29, 2012 unless extended in whole or in part.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 29th day of June, 2012.


Jeremiah W. (Jay) Nixon
Governor

ATTEST:


Robin Carnahan
Secretary of State

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbolology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment, or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety (90)-day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

Title 2—DEPARTMENT OF AGRICULTURE Division 70—Plant Industries Chapter 10—Missouri Plant Law Rules

PROPOSED RULE

2 CSR 70-10.025 Nonprofit Nursery Dealer Defined

PURPOSE: This rule defines a nonprofit nursery dealer.

(1) A nursery dealer registered with the state as a nonprofit organization overseeing membership entities which may offer nursery stock for sale. The sale of such nursery stock is limited to not more than two (2), one- (1-) day sales conducted in a certificate year (October 1 to September 30). Nonprofit nursery dealers and their membership entities shall be subject to the provisions of sections 263.010 to 263.180, RSMo. Nonprofit nursery dealers shall submit notification to the department for each membership entity sale at least thirty (30)

days prior to the sale. Notification shall include, but not be limited to, the name, contact name, address, phone number, and sale date(s) for the membership entity.

AUTHORITY: section 263.040, RSMo 2000. Original rule filed June 22, 2012.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Agriculture, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 2—DEPARTMENT OF AGRICULTURE Division 70—Plant Industries Chapter 10—Missouri Plant Law Rules

PROPOSED AMENDMENT

2 CSR 70-10.075 Fee Schedule. The division is amending section (10).

PURPOSE: This amendment establishes a fee schedule for nonprofit nursery dealers.

(10) Nursery dealer registration-inspection certificates shall be fifty dollars (\$50) annually per outlet, and this fee is payable at the time of making application. Restricted nursery dealer registration-inspection certificates shall be twenty-five dollars (\$25) annually per outlet, and this fee is payable at the time of making application. **Nonprofit nursery dealer registration-inspection certificates shall be one hundred dollars (\$100) annually per nonprofit organization overseeing membership entities, and this fee is payable at the time of making application.** If the nursery dealer registration-inspection certificate is not renewed prior to offering nursery stock for sale, there shall be a penalty of fifty percent (50%) assessed and added to the original fee and paid by the applicant before the registration-inspection certificate shall be issued. This penalty is to recover the costs associated with reinspections.

AUTHORITY: section 263.040, RSMo [1986] 2000. Original rule filed Sept. 12, 1984, effective Jan. 1, 1985. Amended: Filed Dec. 2, 1991, effective April 9, 1992. Amended: Filed June 19, 2012.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions eight hundred seventy-five dollars (\$875) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: DEPARTMENT OF AGRICULTURE**
Division Title: Division 70-Plant Industries
Chapter Title: Chapter 10-Missouri Plant Law Rules

Rule Number and Name:	2 CSR 70-10.075 Fee Schedule
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Agriculture	\$875

III. WORKSHEET

It is anticipated that thirty (30) schools, eleven (11) garden clubs and ten (10) master garden groups will be affected by the proposed requirements of 2 CSR 70-10.075. These fifty-one (51) affected entities currently provide one thousand seventy-five dollars (\$1,075) in fees annually to the Department of Agriculture. The proposed amendment will eliminate these required fees. Two nonprofit entities formed to oversee these affected entities will generate \$200 in fees. The proposed amendment will cost the Department of Agriculture eight hundred seventy-five dollars (\$875) in the aggregate.

IV. ASSUMPTIONS

It was assumed that fifty-one (51) entities would be affected by this amendment and that two (2) nonprofit entities would be created.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 10—Liquefied Petroleum Gases**

PROPOSED AMENDMENT

2 CSR 90-10.001 Definitions and General Provisions. The commission is adding new language to section (1).

PURPOSE: This amendment clarifies one (1) term previously not defined.

(1) Definitions. The following words and phrases shall mean:

(B) “Autogas,” term used for liquefied petroleum gas (LP gas) when it is used as a fuel in internal combustion engines in vehicles for highway use;

[(B)](C) “Commission,” the Missouri Propane Gas Commission;

[(C)](D) “Compressed natural gas” (CNG), a mixture of hydrocarbon gases and vapors, consisting principally of methane in gaseous form that has been compressed for use as a vehicular fuel;

[(D)](E) “Director,” the executive director of the commission;

[(E)](F) “Director of the Missouri Department of Agriculture,” the director of the Missouri Department of Agriculture or their designee;

[(F)](G) “Dispensing station,” a system of compressors, safety devices, cylinders, piping, fittings, valves, regulators, gauges, relief devices, vents, installation fixtures, and other compressed natural gas equipment intended for use in conjunction with motor vehicle fueling by compressed natural gas but does not include a natural gas pipeline located upstream of the inlet of the compressor;

[(G)](H) “Liquefied petroleum gas,” any material which is composed predominantly of any of the following hydrocarbons, or mixtures of the same: propane, propylene, butanes (normal butane or isobutane), and butylenes;

[(H)](I) “Motor vehicle,” all vehicles except those operated on rails which are propelled by internal combustion engines and are used or designed for use in the transportation of a person or persons or property;

[(I)](J) “Person,” any individual, group of individuals, partnership, association, cooperative, corporation, or any other entity;

[(J)](K) “Producer,” the owner of the propane at the time it is recovered at a manufacturing facility, irrespective of the state where production occurs;

[(K)](L) “Propane,” propane, butane, mixtures of propane and butane, and liquefied petroleum gas, as defined by the National Fire Protection Association Standard 58 for the storage and handling of liquefied petroleum gases;

[(L)](M) “Public member,” a member of the commission who is a resident of Missouri, is a user of odorized propane, and is not related by the third degree of consanguinity to any retailer or wholesale distributor of propane;

[(M)](N) “Retail marketer,” a business engaged primarily in selling propane gas, its appliances, and equipment to the ultimate consumer or to retail propane dispensers;

[(N)](O) “Transport,” combination vehicle or vehicle used to haul propane for non-metered delivery; and

[(O)](P) “Wholesaler,” “broker,” or “reseller,” a seller of propane who is not a producer and who does not sell propane to the ultimate consumer.

AUTHORITY: section 323.010, RSMo Supp. [2010] 2011. Original rule filed Oct. 15, 2008, effective March 30, 2009. Amended: Filed June 13, 2011, effective Jan. 30, 2012. Amended: Filed June 26, 2012.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500)

in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Missouri Propane Gas Commission, 4110 Country Club Drive, Suite 200, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 10—Liquefied Petroleum Gases**

PROPOSED AMENDMENT

2 CSR 90-10.011 Inspection Authority—Duties. The commission is amending sections (1) and (3).

PURPOSE: This amendment clarifies the authority and duties of the inspection authority and incorporates references to new editions of the applicable national standards being adopted by rule. These rules do not apply to public utilities regulated by the Missouri Public Service Commission.

(1) The director is the officer in charge of the safety in the storage, handling, [transportation,] and use of liquefied petroleum gas of the Missouri Propane Gas Commission referred to as the inspection authority.

(3) The standards for storage and handling of [LPGs] LP gases and the standards for the installation of gas appliances and gas piping as published in the National Fire Protection Association publications, Numbers 54, [2009] 2012 edition; 58, [2008] 2011 edition; and 1192, [2008] 2011 edition. All publications are published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101, which are incorporated by reference, and will be adhered to by the inspection authority in the course of administering its duties. This rule does not incorporate any subsequent amendments or additions to the referenced material. These are adopted as rules in 2 CSR 90-10.020, 2 CSR 90-10.040, 2 CSR 90-10.060, and 2 CSR 90-10.090.

AUTHORITY: section 323.020, RSMo Supp. [2010] 2011. Original rule filed July 13, 1977, effective Nov. 11, 1977. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 26, 2012.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Missouri Propane Gas Commission, 4110 Country Club Drive, Suite 200, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 10—Liquefied Petroleum Gases

PROPOSED AMENDMENT

2 CSR 90-10.012 Registration—Training. The commission is amending sections (3), (4), and (5).

PURPOSE: This amendment eliminates the term “transporting.”

(3) All persons applying for registration to engage in the business of handling[, or storing[, or transporting] LP gases or in the business of installing, repairing, or servicing piping, equipment, or appliances for use with LP gases shall be properly trained and experienced in the work, familiar with all safety precautions required, and comply with all requirements of Chapter 323, RSMo, and the rules pursuant to it.

(4) Every individual applying for registration to engage in the business of handling[, or storing[, or transporting] LP gases or in the business of installing, repairing, or servicing piping, equipment, or appliances for use with LP gases must score at least seventy-five percent (75%) on a written examination administered or authorized by the Missouri Propane Gas Commission before approval of registration will be granted.

(5) Every individual handling LP gases or servicing appliances or equipment within any business involved in handling[, or storing[, or transporting] LP gases or involved in the installation, repairing, or servicing of piping, equipment, or appliances for use with LP gases must attend and complete an initial training program as defined in 2 CSR 90-10.012(6), including the passing of a written examination. Every individual subject to the requirements of this section shall attend refresher training at least once every three (3) years. New employees shall be trained by their employer until such time that training is available through a training program approved by the director. The employer, or individual if self-employed, is responsible for ensuring compliance with this section.

AUTHORITY: section 323.020, RSMo Supp. [2010] 2011. Original rule filed July 13, 1977, effective Nov. 11, 1977. For intervening history, please consult the Code of State Regulations. Amended: Filed June 26, 2012.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Missouri Propane Gas Commission, 4110 Country Club Drive, Suite 200, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 10—Liquefied Petroleum Gases

PROPOSED AMENDMENT

2 CSR 90-10.013 Installation Requirements. The commission is

amending sections (1), (4), (7), (8), and (9) and deleting sections (5) and (6).

PURPOSE: This amendment brings existing state rules into compliance with national codes and establishes a form for the submission of site plans. It is also adding the term “autogas” and eliminating the exception for hot air balloons.

(1) Prior to any installations at buildings of public assembly or use such as schools, churches, recreational halls, tourist courts, hotels, hospitals, sanitariums, convalescent homes, nursing homes, rest homes, four- (4-)/- unit apartments, and larger or similar types of public buildings having institutional occupancies, for new construction, major renovations or additions to these installations and mobile home parks, shopping center areas, service stations, bulk plants, industrial plants, and other similar locations of public gathering, form MPGC-/0955/0910 must be completed and submitted to the inspection authority. Form MPGC-/0955/0910, [March 1, 2011] **January 1, 2012**, is published by the Missouri Propane Gas Commission, 4110 Country Club Dr., Ste. 200, Jefferson City, MO 65109-0302 and is incorporated by reference. This rule does not incorporate any subsequent amendments or additions to the referenced material.

(3) Form MPGC-0910 including detailed plans shall be furnished to the inspection authority for approval before installation of LP gas containers having a water capacity of over two thousand (2,000) gallons, or two (2) or more containers that are to be connected and have a combined capacity exceeding four thousand (4,000) gallons, or when LP gas in the liquid phase is to be withdrawn or of a container charging plant where portable containers are to be recharged and filled regardless of the capacity of the storage containers used as the supply for filling containers and cylinders. Form MPGC-0910, [March 1, 2011] **January 1, 2012**, is published by the Missouri Propane Gas Commission, 4110 Country Club Dr., Ste. 200, Jefferson City, MO 65109-0302 and incorporated by reference. This rule does not incorporate any subsequent amendments or additions to the referenced material. When approval is granted, one (1) copy of the plans will be returned to the party submitting the original proposal. Final inspection and approval is required before placing the installation into service. If installation of the proposed LP gas system has not begun within one hundred eighty (180) days from the date of approval by the state LP gas inspection authority, new plans shall be resubmitted prior to the time installation does begin.

(4) The following requirements shall be met on plans that shall be submitted to the inspection authority of Missouri for approval before starting construction:

(A) [Two] A complete [copies] copy of the plans shall be submitted to the inspection authority together with detailed specifications;

(B) Plans shall be on good quality paper, legible, and contain the information required by this section; and

(C) Plans and specifications are to be accompanied by a written application on a form prescribed by the inspection authority and shall include the following:

1. The address of the proposed location and the name and mailing address of the owner or builder;

2. An outline of the boundary lines of the property owned or leased;

3. A diagram showing adjoining property on all sides and the distance to all adjacent buildings and roadways;

4. A diagram showing the location and sizes of each container or containers on the plot of ground to be used;

5. A diagram pinpointing each location where liquid transfer will be made, such as loading, unloading, and bottling;

6. A general layout of piping, pipe supports, and pipe protection; the location, size, and type of each important piece of equipment, gate

valve, excess flow valve, pressure relief valve, hose, regulator, and all other important parts of the system planned;

7. The location of each building or shed to be built on the property and each sewer or drain opening;

8. The location of electrical lines and poles and telephone poles if located twenty-five feet (25') or less from storage tanks or liquid transfer areas;

9. The location of the electrical service pole;

10. The location of fences;

11. The dimensions of tank foundations, footings, reinforcements, and tank clearance above ground level;

12. Storage container dimensions, whether new or used, and the name of the manufacturer; and

13. All used containers of two thousand (2,000) gallons water capacity or more to be reinstalled shall have all valves, including relief valves, removed and inspected; and].

[(D) All electrical equipment in vaporizer houses, pump houses and cylinder filling rooms or other similar locations shall be of the type approved for use in Class 1, Group D, Hazardous Locations, of the National Electrical Code.]

[(5) All installations for use of LPGs in containers of sixty to one hundred ten (60–110) pounds, LPG capacity, shall be provided with adequate and safe means of protection to assure that the cylinder is supported in its installed position and that there is reasonable protection from the elements.]

[(6) All commercial, industrial, and institutional LP gas storage systems shall be accessible for emergency firefighting equipment.]

*[(7)](5) All LP gas storage tanks shall be installed a minimum distance of twenty feet (20') from all other Class I, II, and III liquids. In the event of a hazardous location, the LP gas inspection authority may require a greater distance and location up to a maximum distance of one hundred feet (100'). **Distance may be reduced to ten feet (10') when diked.***

[(8)](6) All LP gas dispensers shall have form MPGC-0910 and site plans submitted as required by sections (3) and (4).

[(9)](7) All tanks of one thousand one (1,001) gallons aggregate water capacity or greater being used for liquid withdrawal shall have form MPGC-0910 and site plans submitted as required by sections (3) and (4).

*[(10)](8) All LP gas **and autogas** dispensers shall have recommended fill procedures posted *[in a conspicuous location]*.*

(A) All dispensers in the retail business of refilling *[of]* cylinders shall be equipped with a state-approved scale to be utilized for the safe filling of LP gas cylinders. LP gas cylinders of one hundred (100) pounds propane capacity or less shall be filled by weight only utilizing a state-approved scale. Cylinders of one hundred (100) pounds capacity or less shall not be filled from any LP gas delivery vehicle. *[An exception may be made by the inspection authority for cylinders utilized in hot air balloon service if the cylinders are approved for such service, have an accurate approved method of gauging, are in good condition, and are filled in a safe location away from any source of ignition.]*

[(11)](9) All leak checks shall be performed as per [2009] 2012 NFPA 54 8.2. Documentation shall be kept on file.

AUTHORITY: section 323.020, RSMo Supp. [2010] 2011. Original rule filed July 13, 1977, effective Nov. 11, 1977. For intervening history, please consult the Code of State Regulations. Amended: Filed June 26, 2012.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Missouri Propane Gas Commission, 4110 Country Club Drive, Suite 200, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 2—DEPARTMENT OF AGRICULTURE

Division 90—Weights and Measures

Chapter 10—Liquefied Petroleum Gases

PROPOSED AMENDMENT

2 CSR 90-10.014 Storage. The commission is amending sections (1), (3), and (7) and eliminating section (4) with subsequent renumbering.

PURPOSE: This amendment eliminates or clarifies existing state requirements that duplicate or conflict with national codes adopted by the authority.

(1) All liquefied petroleum gas (LP gas) storage containers or storage systems where one (1) tank is used having a water capacity of one hundred (100) gallons or more, or where two (2) or more tanks are used having a total combined capacity of more than one hundred (100) gallons, and all related equipment located at or near containers which are installed *[on school grounds, public playgrounds, recreation park grounds or any other playground areas where children in age groups from preschool through grade twelve (12) have access]* **within twenty-five feet (25') of a playground where children in age groups of preschool through grade twelve (12) have access** shall be fenced with industrial type fence a minimum of six feet (6') high as to prevent tampering with the gas piping system.

(3) Containers of any size shall not be used for storage other than manufacturer's design and specifications; i.e., railcars, converted railcars, bulk delivery truck tanks both transport and bobtail cannot be utilized for fixed storage. **A variance for bobtail delivery truck tanks may be requested. A written request must be submitted to the commission on form MPGC-0417 included herein.**

[(4) All LP gas bulk storage containers, of four thousand (4,000) gallons water capacity (WC) or more shall have its pumps, piping, vaporizers, hoses, bulkheads, and related equipment protected from tampering by a metal chain link or equivalent industrial-type fence at least six feet (6') tall. All locations with one hundred (100) square feet or less fenced area shall have at least one (1) lockable access gate. All locations with more than one hundred (100) square feet fenced shall have at least two (2) lockable access gates.]

[(5)](4) All aboveground LP gas storage containers shall be kept properly painted with a light reflective paint such as white or aluminum.

//(6)/(5) All aboveground LP gas storage containers, two thousand (2,000) **water capacity (WC)** or more, and all dispensers shall be clearly marked PROPANE, FLAMMABLE, NO SMOKING on two (2) sides in a conspicuous location of the dispenser housing, fencing, or a combination thereof. All wording shall be in block-style letters with a minimum height of two inches (2") and a minimum width of one-fourth inch (1/4") on a contrasting background.

//(7)/(6) Each LP gas bulk plant or system of two thousand (2,000) gallons WC or more and all dispensers engaged in retail shall have a sign displayed in a conspicuous location stating the name and telephone number of the nearest representative, agent, or owner of the system. **All wording shall be in block-style letters with a minimum height of one inch (1") and on a contrasting background.**

//(8)/(7) Any LP gas storage container, including any container used for motor fuel, which has been damaged in any manner shall be repaired according to the requirements of the code it was manufactured under and shall be hydrostatically tested prior to placing in service.

//(9)/(8) Repair of any LP gas container shell, excluding valves, fittings, regulators, and attachments, shall be in conformance with the code under which the container was manufactured, and all repairs shall be performed only by a person certified under the code by which the container was manufactured.

//(10)/(9) A copy of all container data information and repairs to the container shall be submitted to the inspection authority for review prior to installation of the container.

//(11)/(10) LP gas storage containers supplying mobile home parks, schools, hospitals, domestic systems, or other public or institutional facilities shall not be utilized as a bulk storage plant for loading LP gas into any fuel delivery vessel or vehicle.

//(12)/(11) At a bulk storage facility that the owner declares out-of-service, the tank or tanks shall be empty, only contain residual pressure, and be capped or plugged as close as practical to the positive shut-off valve just outside the tank or tanks. Before placing the tank or plant back into operation, form MPGC-0910 including detailed plans shall be furnished to the inspection authority for approval and approval must be granted by the inspection authority. Form MPGC-0910, *[March 1, 2011]* **January 1, 2012**, is published by the Missouri Propane Gas Commission, 4110 Country Club Dr., Ste. 200, Jefferson City, MO 65109-0302 and is incorporated by reference. This rule does not incorporate any subsequent amendments or additions to the referenced material.



MISSOURI PROPANE GAS COMMISSION
LP GAS INSPECTION AUTHORITY
APPLICATION FOR VARIANCE

NOTE: ONE APPLICATION/FORM MUST BE SUBMITTED FOR EACH UNIT OF EQUIPMENT.

FOR MPGC OFFICE USE ONLY

DATE	VARIANCE #	MPGC APPROVAL <input type="checkbox"/> YES <input type="checkbox"/> NO
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THIS FORM MUST BE COMPLETED IN ITS ENTIRETY OR IT WILL BE RETURNED

OWNER NAME	OWNER ADDRESS	OWNER CITY, STATE, ZIP
NAME (IF DIFFERENT FROM OWNER)	MAILING ADDRESS	MAILING CITY, STATE, ZIP
LOCATION NAME	LOCATION ADDRESS	LOCATION CITY, STATE, ZIP
LOCATION COUNTY	LOCATION PHONE	NUMBER OF UNITS AT LOCATION

ACTIVITY	TYPE OF EQUIPMENT	USAGE
NEW INSTALLATION	CARGO TANK	OFFICE/GOVT BUILDING
OTHER	OTHER	HOSPITAL/INSTITUTIONAL
		CHURCH/RELIGIOUS
		COMMERCIAL/INDUSTRIAL
		RETAIL
		SCHOOL/LIBRARY/EDUCATIONAL
		DISPENSER
		RESIDENCE
		MOTEL/HOTEL
		AGICULTURE
		NURSING/RETIREMENT HOME
		OTHER

MANUFACTURER	DATE OF MANUFACTURER	SERIAL NUMBER	CAPACITY
WORKING PRESSURE	SPECIFIC LOCATION	LAST INSPECTION DATE	

COMMENTS AND DESCRIPTION DETAIL OF INSTALLATION

North ↑

Draw plan here, or attach plan in duplicate.

WRITTEN RESPONSE REQUIRED BEFORE INSTALLATION.

SIGNATURE OF CONTACT PERSON AT LOCATION	INSPECTOR SIGNATURE
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PRINTED NAME AND TITLE OF CONTACT PERSON AT LOCATION
--

Return to: MISSOURI PROPANE GAS COMMISSION, 4110 COUNTRY CLUB DR., STE. 200, JEFFERSON CITY, MO 65109-0302
OR FAX TO: 573-893-1074

AUTHORITY: section 323.020, RSMo Supp. [2010] 2011. Original rule filed July 13, 1977, effective Nov. 11, 1977. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 26, 2012.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Missouri Propane Gas Commission, 4110 Country Club Drive, Suite 200, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 10—Liquefied Petroleum Gases**

PROPOSED AMENDMENT

2 CSR 90-10.020 NFPA Manual No. 54, National Fuel Gas Code. The commission is amending section (1).

PURPOSE: This amendment incorporates references to new editions of the applicable national standards being adopted by rule.

(1) Standards contained in National Fire Protection Association (NFPA) Manual No. 54, *National Fuel Gas Code*, [2009] 2012 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101, are incorporated herein by reference. This rule does not incorporate any subsequent amendments or additions to the referenced material. The balance of this rule sets forth requirements for liquefied petroleum gas (LP gas) applications not covered in the manual. The scope of National Fire Protection Association (NFPA) Manual No. 54, *National Fuel Gas Code*, [2009] 2012 edition, is to develop fire safety codes, standards, recommended practices, and manuals, as may be considered desirable, covering the installation of piping and appliances using fuel gases such as natural gas, manufactured gas, liquefied petroleum gas, and liquefied petroleum gas-air mixture.

AUTHORITY: section 261.023.6., RSMo 2000, and section 323.020, RSMo Supp. [2010] 2011. Original rule filed Jan. 24, 1968, effective Feb. 3, 1968. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 26, 2012.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Missouri Propane Gas Commission, 4110 Country Club Drive, Suite 200, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 10—Liquefied Petroleum Gases**

PROPOSED AMENDMENT

2 CSR 90-10.040 NFPA Manual No. 58, Storage and Handling of Liquefied Petroleum Gases. The commission is amending section (1) and eliminating section (4).

PURPOSE: This amendment reconciles the current version of Missouri's adopted propane code to the applicable national standard and brings existing state rules into compliance with national codes

(1) This rule incorporates by reference National Fire Protection Association (NFPA) Manual No. 58, *Storage and Handling of Liquefied Petroleum Gases*, [2008] 2011 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101, as the current standard for the storage and handling of liquefied petroleum gases (LP gas). This rule does not incorporate any subsequent amendments or additions to the referenced material.

[(4) The written Fire Safety Analysis, required by the 2008 edition of the National Fire Protection Association's Pamphlet 58, *Liquefied Petroleum Gas Code*, 6.25.3, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101, and incorporated by reference, shall be prepared by a person approved by the Missouri Propane Gas Commission, who has relevant experience and is knowledgeable of the practices of the LP gas industry. Except for an engineered facility, the Fire Safety Analysis may be prepared by the owner of the facility in cooperation with the local fire department and/or Fire Marshall. The Fire Safety Analysis for an engineered facility, such as one that incorporates refrigerated storage, automated fuel standby (either industrial or utility) or pipeline terminals, shall be prepared, stamped, and signed by a professional engineer who has relevant experience in LP gas or fire protection. This rule does not incorporate any subsequent amendments or additions to the referenced material.]

AUTHORITY: section 261.023.6., RSMo 2000, and section 323.020, RSMo Supp. [2010] 2011. Original rule filed Jan. 24, 1968, effective Feb. 3, 1968. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 26, 2012.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Missouri Propane Gas Commission, 4110 Country Club Drive, Suite 200, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
Chapter 10—Liquefied Petroleum Gases**

PROPOSED AMENDMENT

2 CSR 90-10.090 NFPA Manual No. 1192, Chapter 5, Standard

for Recreational Vehicles. The commission is amending section (1).

PURPOSE: This amendment reconciles the current version of Missouri's adopted propane code to the applicable national standard.

(1) The scope of National Fire Protection Association Manual No. 1192, Chapter 5, *Standard on Recreational Vehicles*, [2008] 2011 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269-9101, covers the heat producing appliances and fuel systems within or on recreational vehicles. Whenever nationally recognized standards for heat producing appliances and fuel systems and this Chapter 5 differ, the requirements of the latter shall apply.

AUTHORITY: section 323.020, RSMo Supp. [2010] 2011. Original rule filed May 13, 1977, effective Jan. 13, 1978. For intervening history, please consult the *Code of State Regulations*. Amended: Filed June 26, 2012.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Missouri Propane Gas Commission, 4110 Country Club Drive, Suite 200, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 2—DEPARTMENT OF AGRICULTURE

Division 90—Weights and Measures

Chapter 10—Liquefied Petroleum Gases

PROPOSED AMENDMENT

2 CSR 90-10.120 Reporting of Odorized LP Gas Release, Fire, or Explosion. The commission is amending section (1).

PURPOSE: This amendment eliminates duplication of national codes adopted by the authority.

(1) [In addition to NFPA 58, 2008 edition, 14.4.3.3, at] At the earliest practical moment or within two (2) hours following discovery, the owner, manager, or operator of a vehicle or equipment regulated by this chapter shall notify the Missouri Propane Gas Commission by telephone of any event involving odorized liquefied petroleum gas (LP gas) release, fire, or explosion which:

(E) Could reasonably be judged as significant because of rerouting of traffic, [or] evacuation of buildings, or media interest; or

AUTHORITY: section 323.025, RSMo Supp. [2010] 2011. Original rule filed June 13, 2011, effective Jan. 30, 2012. Amended: Filed June 26, 2012.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in

support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Missouri Propane Gas Commission, 4110 Country Club Drive, Suite 200, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 3—DEPARTMENT OF CONSERVATION

Division 10—Conservation Commission

Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits

PROPOSED AMENDMENT

3 CSR 10-7.433 Deer: Firearms Hunting Seasons. The commission proposes to amend subsections (1)(D) and (5)(C) of this rule.

PURPOSE: This amendment renames this muzzleloader portion of the fall firearms deer season to more accurately reflect the new methods allowed.

(1) The firearms deer hunting season is comprised of six (6) portions.

(D) [Muzzleloader] **Alternative methods** portion: December 15 through 25, 2012; use muzzleloader and archery methods, crossbows, atlatl, handguns, and air-powered guns as defined in 3 CSR 10-7.431 to take deer statewide.

(5) Feral hogs, defined as any hog, including Russian and European wild boar, not conspicuously identified by ear tags or other forms of identification and roaming freely on public or private lands without the landowner's permission (refer to section 270.400 of *Missouri Revised Statutes*), may be taken in any number during the firearms deer hunting season as follows:

(C) During the youth and [muzzleloader] **alternative methods** portions statewide and the urban zones portion in open counties—

1. Deer permittees may only use methods allowed for deer; and

2. Small game permittees may only use methods allowed for small game.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed April 29, 2004, effective May 15, 2004. For intervening history, please consult the *Code of State Regulations*. Amended: Filed July 2, 2012.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

Title 13—DEPARTMENT OF SOCIAL SERVICES

Division 40—Family Support Division

Chapter 2—Income Maintenance

PROPOSED RULE

13 CSR 40-2.400 Definitions for the Screening and Testing for the Illegal Use of Controlled Substances by Temporary Assistance

Applicants and Recipients

PURPOSE: This rule establishes the definitions that will govern the use of certain terms used to establish the procedures for the screening and testing for illegal use of controlled substances by Temporary Assistance applicants and recipients.

(1) Applicant—A person who has applied for Temporary Assistance benefits in accordance with Temporary Assistance eligibility regulations, but has not yet been determined eligible for benefits.

(2) Appropriate substance abuse treatment program—A substance abuse treatment program that the Department of Mental Health has approved and—

(A) Is certified as an alcohol and drug abuse treatment program by the Department of Mental Health; and

(B) Is contracted with the Department of Mental Health to provide Comprehensive Substance Treatment and Rehabilitation (CSTAR) services.

(3) Drug test—The urine dipstick five- (5-) panel test.

(4) Entry into the substance abuse treatment program—A recipient shall be considered to have entered into a substance abuse treatment program when the recipient has been enrolled in the Department of Mental Health's consumer information system by an appropriate treatment provider.

(5) Controlled substance—a drug, substance, or immediate precursor in Schedules I through V listed in sections 195.005 to 195.425, RSMo.

(6) Head-of-household—The individual who is registered as the applicant or recipient for Temporary Assistance benefits with the division.

(7) Individual—A person who is either an applicant or recipient for Temporary Assistance benefits with the Family Support Division.

(8) Misdemeanor or felony drug offense—Any arrests or convictions for violating any federal or Missouri state statutes relating to any illegal use, possession, trafficking, delivery, distribution, registration, creation, production, or manufacturing of any drugs, narcotics, controlled substances, controlled substance analogues, imitation controlled substances, drug paraphernalia, counterfeit substances, or immediate precursor shall constitute the misdemeanor or felony drug offenses that shall be screened for by a search of the records of the Missouri Highway Patrol.

(9) Protective payee—An individual appointed by the Family Support Division to act on behalf of the Temporary Assistance household with regard to Temporary Assistance benefits.

(10) Reasonable cause—Reasonable cause exists when there is reasonable suspicion that there is an articulable individualized basis for suspecting that the Temporary Assistance applicant or recipient is engaging in the illegal use of controlled substances. Reasonable suspicion shall be deemed to exist based on the response to the screening tool or when a search of the law enforcement records of the Missouri Highway Patrol establishes that the individual has been arrested or convicted of a misdemeanor or felony drug offense within the last twelve (12) months.

(11) Recipient—A person who receives public assistance benefits in accordance with Temporary Assistance eligibility regulations.

(12) Successful completion of substance abuse treatment program—A recipient referred under section 208.027, RSMo, has successfully

completed a substance abuse program when a letter or other official notice is issued from the appropriate substance abuse treatment program verifying the recipient has made satisfactory progress toward the criteria outlined in 9 CSR 30-3.130(8)(A) and if the recipient has not tested positive in accordance with 13 CSR 40-2.420.

(13) Temporary Assistance (TA)—Missouri's Temporary Assistance for Needy Families program that provides temporary cash assistance to families as set forth in sections 208.040, RSMo, et seq. and 13 CSR 40-2.300 to 13 CSR 40-2.370.

(14) Temporary Assistance for Needy Families (TANF)—The federal program under which Missouri's Temporary Assistance benefits are distributed as set forth in 42 U.S.C. section 601, et seq. and 42 CFR 260.10, et seq.

(15) Treatment provider—Is an individual or entity that operates a substance abuse treatment program that the Department of Mental Health has approved and—

(A) Is certified as an alcohol and drug abuse treatment program by the Department of Mental Health; and

(B) Is contracted with the Department of Mental Health to provide Comprehensive Substance Treatment and Rehabilitation (CSTAR) services.

(16) Urine dipstick five- (5-) panel test—A test that will analyze an individual's urine sample to determine whether an individual has used the following controlled substances:

(A) Amphetamines/Methamphetamines;

(B) Cannabinoids (THC);

(C) Cocaine;

(D) Opiates; and

(E) Phencyclidine (PCP).

AUTHORITY: section 208.027, RSMo Supp. 2011. Original rule filed June 29, 2012.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Social Services, Family Support Division, PO Box 2320, Jefferson City, MO 65102-2320. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 2—Income Maintenance**

PROPOSED RULE

13 CSR 40-2.410 Screening Temporary Assistance Applicants and Recipients for Illegal Use of a Controlled Substance

PURPOSE: This rule adds the requirement that all applicants or recipients for the payment of Temporary Assistance who are age eighteen (18) or older and are the head-of-household complete a screening for illegal use of a controlled substance. This rule also establishes the individual's eligibility due to the screening and consequences when the individual fails to comply with the screening requirement and when the screening provides reasonable cause for

illegal use of a controlled substance.

(1) The Family Support Division shall conduct a screening to determine illegal use of a controlled substance for all Temporary Assistance applicants and recipients who are age eighteen (18) or older, are the head of the household, and are otherwise eligible for Temporary Assistance benefits as defined in 13 CSR 40-2.300 through 13 CSR 40-2.370.

(A) The individual must cooperate with the screening process.

1. The individual must agree to complete the screening process.

2. The individual must answer all questions.

(B) Screening shall consist of the following two (2) processes:

1. The individual shall submit answers to a screening tool administrated by the Family Support Division at the time of application; and

2. The Family Support Division shall conduct a periodic match of Temporary Assistance recipients with the Missouri Highway Patrol law enforcement records for individuals that have an arrest or conviction for a misdemeanor or felony drug offense upon implementation of the screening process.

(C) The individual may request referral to and then must successfully complete an appropriate substance abuse treatment program as set forth in 13 CSR 40-2.430 in lieu of a drug test as set forth in 13 CSR 40-2.420 at his/her request.

1. The division shall not provide Temporary Assistance to or on behalf of an individual who refuses or fails to cooperate with the screening process. The individual is ineligible for Temporary Assistance for a period of three (3) years from the date of the administrative hearing decision if the division is affirmed. The hearing process is set forth in 13 CSR 40-2.440.

(2) The individual shall submit to a urine dipstick five- (5-) panel drug test, as defined in 13 CSR 40-2.420 if—

(A) The individual's response to the screening tool gives rise to reasonable suspicion the individual engages in the illegal use of a controlled substance; or

(B) An individual has an arrest or conviction for a misdemeanor or felony drug offense from the match with the Missouri Highway Patrol within the preceding twelve (12) months of the date of the match with the Missouri Highway Patrol.

(3) The Temporary Assistance application or receipt of Temporary Assistance benefits constitutes consent to obtain all relevant information necessary to determine whether the individual engages in the illegal use of a controlled substance.

AUTHORITY: section 208.027, RSMo Supp. 2011. Original rule filed June 29, 2012.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions one hundred sixty-three thousand nine hundred twenty dollars (\$163,920) in the aggregate in state fiscal year 2013.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Social Services, Family Support Division, PO Box 2320, Jefferson City, MO 65102-2320. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: Department of Social Services**
Division Title: Family Support Division
Chapter Title: Income Maintenance

Rule Number and Name:	13 CSR 40-2.410
Type of Rulemaking:	Proposed Rulemaking

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
	\$163,920 in state fiscal year 2013

III. WORKSHEET

House Bill Nos. 73 & 47, passed during the 2011 legislative session, require DSS to establish a system to screen, test and sanction applicants for and recipients of Temporary Assistance(TA) benefits for illegal drug use. The bill requires DSS/FSD to develop a program to screen TA applicants and recipients, and then test for the illegal use of a controlled substance, based on reasonable cause from the screening, using a urine dipstick five-panel test, when they are otherwise eligible for TA. Those individuals who test positive shall have the opportunity to comply with a substance abuse treatment program approved by the Department of Mental Health. If they fail to comply with treatment, test positive within six months of entering a treatment program, or refuse to submit to the screening or the drug test, the individual is ineligible for TA for a period of three years (208.027.1). When this occurs, DSS/FSD is required to appoint a protective payee for the other eligible members of the TA household, so they may continue to receive TA benefits (208.027.3). This request is funded with expected TANF savings due to the implementation of Drug Testing.

FSD arrived at the screening cost in the following manner:

OA-ITSD cost for system changes for screening (one-time cost): \$73,980

OA-ITSD start-up for required changes to the FAMIS system (one-time cost): \$68,580

OA-ITSD on-going system cost for maintenance: \$2,000

OA-ITSD-Start-up cost to implement required changes to the Family Assistance Management Information System (FAMIS) for tracking protective payees (one-time cost): \$19,360

Total system costs for development, implementation and changes to screening process:
\$163,920 ($\$73,980 + \$68,580 + \$2,000 + \$19,360 = \$163,920$)

IV. ASSUMPTIONS

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 2—Income Maintenance

PROPOSED RULE

13 CSR 40-2.420 Testing for the Illegal Use of a Controlled Substance by Applicants and Recipients of Temporary Assistance

PURPOSE: This rule adds the requirement that applicants for Temporary Assistance and recipients for the payment of Temporary Assistance who are age eighteen (18) or older and are the head-of-household whose screening for illegal use of a controlled substance establishes reasonable cause to believe the individual engages in the illegal use of a controlled substance must submit to a urine dipstick five- (5-) panel drug test. This rule also establishes the individual's ineligibility for Temporary Assistance pursuant to the drug testing requirement.

(1) The Family Support Division shall require an individual to submit to a urine dipstick five- (5-) panel drug test when the Family Support Division determines there is reasonable cause to believe the individual is engaging in the illegal use of a controlled substance. The determination of reasonable cause shall be based upon the screening process set forth in 13 CSR 40-2.410.

(A) The division or its designee shall notify the individual in writing of the reasonable cause determination that requires the individual to submit to a urine dipstick five- (5-) panel drug test.

(B) The division or its designee shall notify the individual in writing of the location of the test and the date by which the test must be completed and of the drug testing process.

(C) The division or its designee shall make the test available within the individual's county of residence as known to the division.

(D) The individual must provide verification of identity when submitting to the drug test. Acceptable forms of identity verification include: U.S. passport; driver's license issued by the state or U.S. territory with a photograph or other identifying information; certificate of degree of Indian blood; school identification card; U.S. military card or draft card with photograph; identification card issued by federal, state, or local government; and Native American tribal document.

(2) The division shall not provide Temporary Assistance to or on behalf of an individual who is required to submit to a drug test and who refuses or fails to cooperate with any part of the drug testing process.

(A) Refusal to cooperate shall include:

1. Failure to provide a sample for drug testing within the required time frame;
2. Failure to fully comply with the drug testing process as directed by the Family Support Division or its designee;
3. Failure to appear for drug testing at the designated location and time;
4. Failure to contact or cooperate with any medical review process.

A. Cooperation with the medical review process shall include, but is not limited to:

- (I) An interview; and
- (II) Providing copies of medical records needed to confirm the result of the drug testing;

5. Failure to provide verification of identity; and

6. Failure to complete any documents or consent forms required by the Family Support Division or its designee, the drug testing provider, the Department of Mental Health, or the substance abuse treatment provider.

(B) The individual is ineligible for Temporary Assistance for a period of three (3) years from the date of the administrative hearing decision if the division is affirmed. The hearing process is set forth

in 13 CSR 40-2.440.

(3) The division shall not provide Temporary Assistance to or on behalf of an individual who tests positive for illegal use of a controlled substance and fails to enter, participate, and successfully complete an appropriate substance abuse treatment program as set forth in 13 CSR 40-2.430. The individual is ineligible for Temporary Assistance for a period of three (3) years from the date of the administrative hearing decision if the division is affirmed. The hearing process is set forth in 13 CSR 40-2.440.

(4) The division may require a urine dipstick five- (5-) panel drug test at six (6) months from the date the recipient entered the substance abuse treatment program as defined in 13 CSR 40-2.430. If the individual tests positive, the individual is ineligible for Temporary Assistance for a period of three (3) years from the date of the administrative hearing decision if the division is affirmed. The hearing process is set forth in 13 CSR 40-2.440.

(5) The amount of assistance that would otherwise be required to be provided under the Temporary Assistance Program to the family members of an individual to whom sections (2), (3), and (4) apply shall be reduced by the amount which would have otherwise been made available to the individual who has been declared ineligible.

(6) The division shall add an otherwise eligible individual who has been declared ineligible for Temporary Assistance as set forth in 13 CSR 40-2.400 through 13 CSR 40-2.430 to the Temporary Assistance household after the three- (3-) year period of ineligibility has elapsed. The individual is subject to the rules as set forth in 13 CSR 40-2.400 through 13 CSR 40-2.450.

AUTHORITY: section 208.027, RSMo Supp. 2011. Original rule filed June 29, 2012.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions three hundred thirty-four thousand, two hundred ninety-seven dollars (\$334,297) in the aggregate in state fiscal year 2013.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Social Services, Family Support Division, PO Box 2320, Jefferson City, MO 65102-2320. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: Department of Social Services
Division Title: Family Support Division
Chapter Title: Income Maintenance**

Rule Number and Name:	13 CSR 40-2.420
Type of Rulemaking:	Proposed Rulemaking

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
	\$334,297 in state fiscal year 2013

III. WORKSHEET

DSS is required to establish a system to screen, test and sanction applicants for and recipients of Temporary Assistance (TA) benefits for illegal drug use. The bill requires DSS/FSD to develop a program to screen TA applicants and recipients, and then test for the illegal use of a controlled substance, based on reasonable cause from the screening, using a urine dipstick five-panel test, when they are otherwise eligible for TA. Those individuals who test positive shall have the opportunity to comply with a substance abuse treatment program approved by the Department of Mental Health. If they fail to comply with treatment, test positive within six months of entering a treatment program, or refuse to submit to the screening or the drug test, the individual is ineligible for TA for a period of three years (208.027.1). When this occurs, DSS/FSD is required to appoint a protective payee for the other eligible members of the TA household, so they may continue to receive TA benefits (208.027.3).

Based on this information, FSD determined the cost of testing in the following manner:

In March 2011, there were 37,363 adult recipients of TANF benefits. In addition to recipients, approximately 36,624 new adult applicants are approved annually for a total population of 73,987 that would be subject to drug screening and testing. (37,363 + 36,624 = 73,987).

FSD estimates that 10% of the population will be sent for testing.

FSD estimates that 25% of those selected to test will not test, 25% will test positive and 50% will test negative.

The cost of a negative test result is \$42.00 for an annual cost of $7399 \times 50\% = 3,699 \times$
 $\$42.00 = \$155,358$

The cost of a positive test result is \$96.75 for an annual cost of $7399 \times 25\% = 1849.5 \times$
 $\$96.75 = \$178,939$

The total cost of testing is \$334,297 ($\$155,358 + \$178,939 = \$334,297$)

IV. ASSUMPTIONS

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 2—Income Maintenance

PROPOSED RULE

13 CSR 40-2.430 Substance Abuse Treatment Program for Temporary Assistance Recipients

PURPOSE: This rule explains the referral and treatment process for recipients of Temporary Assistance benefits who are required to enter and complete a substance abuse treatment program as a result of 13 CSR 40-2.420.

(1) The Family Support Division shall refer recipients of Temporary Assistance benefits who are determined to have tested positive for the illegal use of a controlled substance under the provisions of section 208.027, RSMo, to an appropriate substance abuse treatment program approved by the Department of Mental Health, as set forth in 13 CSR 40-2.400.

(2) Recipients referred to an approved substance abuse treatment program as set forth in these rules shall receive a comprehensive assessment to determine the appropriate level of care and to develop an initial treatment plan. Treatment services shall be delivered in accordance with all rules applicable to certified programs as defined in 9 CSR 30-3.032.

(3) Active participation in the substance abuse treatment program by recipients referred as provided in section 208.027, RSMo, shall be demonstrated by—

(A) Completion of comprehensive assessment as set forth in section (2);

(B) Enrollment in an appropriate substance abuse treatment program;

(C) Consent to communication between and among the treatment provider, Family Support Division, and Department of Mental Health personnel about participation and progress in substance abuse treatment; and

(D) Participation in the development of an individualized treatment plan and satisfactory progress toward treatment goals.

(4) The Department of Mental Health or the treatment provider shall inform the Family Support Division in writing within five (5) days of the following:

(A) The date the recipient enters into the substance abuse treatment program; and

(B) The date upon which the recipient successfully completed the substance abuse treatment program; and

(C) The date the recipient did not successfully complete the substance abuse treatment program.

(5) The written notice(s) required in section (4) shall be signed by the treatment provider. The original, signed notice(s) shall be self-authenticating and shall be admissible into evidence without further foundation at any hearing conducted under 13 CSR 40-2.440. The hearing officer may authorize a substitution of the original with a copy for the record. If the division or the recipient objects to the introduction of the notice(s) into evidence, the party making the objection shall have the burden to establish that the notice(s) is not authentic and should not be admitted into evidence. The recipient or the division may request that the hearing officer issue a subpoena to the treatment provider for examination or cross-examination on the record.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions \$1,940,280 in the aggregate in state fiscal year 2013.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Social Services, PO Box 1527, Jefferson City, MO 65102-1527. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**.

AUTHORITY: section 208.027, RSMo Supp. 2011. Original rule filed June 29, 2012.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: Department of Social Services**
Division Title: Family Support Division
Chapter Title: Income Maintenance

Rule Number and Name:	13 CSR 40-2.430
Type of Rulemaking:	Proposed Rulemaking

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
	\$1,940,280 in state fiscal year 2013

III. WORKSHEET

HB 73, passed in the 2011 legislative session, requires the Department of Social Services to develop a program to screen each applicant for or recipient of TANF benefits whom the department has reasonable cause to believe engages in the illegal use of a controlled substance. Any applicant or recipient who tested positive for the illegal use of a controlled substance must be referred to an appropriate substance abuse treatment program approved by the Division of Alcohol and Drug Abuse with the Department of Mental Health.

For those participating in treatment under this rule, it is assumed that the Department of Mental Health will be responsible for the State's Medicaid match and associated treatment costs that are not Medicaid reimbursable. The demand for DMH-funded substance abuse treatment in Missouri already far exceeds the capacity of contracted community providers. A significant cost will be incurred by DMH for the costs related to the treatment of those referred under this new legislation.

The on-going cost for DMH is \$1,940,280 for treatment services for an additional 740 individuals entering a substance abuse treatment program. This assumes that 3,699 individuals will be referred for testing. Based on that, the following calculation was made:

Assumed potential positive tests:	3,699
50% will not test or will drop off:	<u>(1,850)</u>
Total tested positive:	1,850

Assumed 40% of total testing positive will present for treatment: 740

Average cost of Medicaid Treatment Services $\$1,816 \times 740 = \$1,343,840$
 Average cost of Non-Medicaid Treatment Services $\$806 \times 740 = \$596,440$
 Total on-going cost for DMH treatment: \$1,940,280.

IV. ASSUMPTIONS

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 2—Income Maintenance**

PROPOSED RULE

13 CSR 40-2.440 Hearings for Proceedings under 13 CSR 40-2.400 through 13 CSR 40-2.450

PURPOSE: This rule adds the requirement that all applicants or recipients for Temporary Assistance benefits who are age eighteen (18) or older and are the head-of-household who refuses or fails to cooperate with the screening process, who refuses to submit to a drug test, or who tests positive for the illegal use of controlled substances and fails to participate in a substance abuse treatment program will have a hearing. This rule establishes the procedures to be followed in the hearing.

(1) Eligibility for Hearing.

(A) Any applicant for or recipient of Temporary Assistance shall have an automatic administrative hearing before the director of the Family Support Division or his/her designee when he/she—

1. Refuses or fails to cooperate with the screening process;
2. Refuses or fails to submit to a drug test; or
3. Tests positive for the illegal use of controlled substances for the first time.

(B) Any applicant for or recipient of Temporary Assistance may request the director of the Family Support Division provide an administrative hearing before the director of the Family Support Division or his/her designee when he/she—

1. Does not participate in an appropriate substance abuse treatment program after having been ordered to participate in a treatment program following an administrative hearing;
2. Fails to successfully complete an appropriate substance abuse treatment program after having been ordered to participate in a treatment program following an administrative hearing; or
3. Tests positive for the illegal use of controlled substances a subsequent time.

(2) Notification of Adverse Action and Hearings.

(A) Notice(s). The Family Support Division shall notify the individual in writing of any action affecting his/her Temporary Assistance benefit(s) as set forth in subsection (1)(A) or (1)(B). The notification shall be sent by mail to his/her address of record at least ten (10) days before the date the action becomes effective. The individual has the duty to notify the Family Support Division of any change in his/her residence address, mailing address, and other contact information.

1. The notice for the automatic administrative hearings required under subsection (1)(A) shall meet the requirements set out in Chapter 536, RSMo, the hearing requirements in 45 CFR section 205.10, this regulation, and any other applicable federal statutes or regulations.

2. The notice for administrative hearings made upon request under subsection (1)(B) shall meet the requirements set out in section 208.080, RSMo, the hearing requirements in 45 CFR section 205.10, this regulation, and any other applicable federal statutes or regulations. The individual shall have ninety (90) days from the date of the notice of the action affecting his/her Temporary Assistance benefit(s) in which to request an appeal to the director of the Family Support Division.

(B) Hearings.

1. The automatic administrative hearings required under subsection (1)(A) shall be conducted pursuant to procedures set forth in Chapter 536, RSMo, the hearing requirements in 45 CFR section 205.10, this regulation, and any other applicable federal statutes or regulations by administrative hearing officers designated by the director of the Family Support Division.

2. The administrative hearings made upon request under subsection (1)(B) shall be conducted pursuant to procedures set forth in section 208.080, RSMo, the hearing requirements in 45 CFR section 205.10, this regulation, and any other applicable federal statutes or regulations by administrative hearing officers designated by the director of the Family Support Division.

(3) Hearing Procedure. The following procedure shall apply to all administrative hearings required by either subsection (1)(A) or (1)(B).

(A) Notice. The hearing officer shall mail a notice of the hearing to the Family Support Division, the individual at his/her address of record, and if appropriate, to the individual's attorney or designated representative. The notice shall include any information required by either Chapter 208, RSMo, Chapter 536, RSMo, 45 CFR section 205.10, or any other federal statutes or regulations that are applicable to the hearing being conducted under the authority of either subsection (1)(A) or (1)(B). In addition, the following information shall be included in every hearing notice:

1. The caption and number of the case;
2. The time and place of the hearing;
3. The subject of the hearing;
4. An order will be entered in accordance with the adverse action notice if the individual fails to appear and participate at the hearing;
5. Information on how to contact the hearing officer to request an in-person hearing if the individual has a need for a special accommodation due to a disability; and
6. The individual may represent him/herself or the individual may authorize another individual, such as legal counsel or relative, to act as a representative.

(B) No answer or responsive pleading shall be required to respond to any notice affecting his/her Temporary Assistance benefit(s) mailed by the Family Support Division or notice of an administrative hearing provided for under this regulation.

(C) The hearing officer shall set the date and time for the hearing. The hearing may be continued once on request of the individual or the Family Support Division.

(D) The hearing shall be conducted by telephone if the individual agrees, or at the local office of the Family Support Division.

(E) The Family Support Division shall have the burden to establish by a preponderance of the evidence that the individual—

1. Tested positive for the illegal use of a controlled substance;
2. Failed or refused to cooperate or submit to the screening as set forth in 13 CSR 40-2.410;
3. Failed or refused to cooperate or submit to the test for illegal use of a controlled substance as required by 13 CSR 40-2.420;
4. Failed or refused to sign any required consent form required by 13 CSR 40-2.400 through 13 CSR 40-2.430;
5. Failed or refused to participate in an appropriate substance abuse treatment program as set forth in 13 CSR 40-2.420; or
6. Failed or refused to successfully complete substance abuse treatment as set forth in 13 CSR 40-2.440.

(F) Affirmative Defenses. The individual shall have the burden of proving the following affirmative defenses. Failure to comply with any of the requirements of subsection (3)(F) shall be cause to consider the individual as having waived the affirmative defenses set forth below.

1. The individual was prescribed drugs by a licensed physician that resulted in the positive test for the illegal use of controlled substances. It shall be presumed that the ingestion of medication prescribed to someone other than the individual subject to the test for illegal use of controlled substances required under section 208.027, RSMo, will not constitute an affirmative defense to excuse or negate the positive test result for the illegal use of a controlled substance.

2. The individual has a medical condition that prevented the individual from submitting a sample for testing for illegal use of controlled substances or from completing an appropriate substance

abuse treatment program. The assertion of this affirmative defense shall be governed by the following rule:

A. The individual must produce a copy of medical records and a written report from the individual's physician providing the medical diagnosis along with any supporting medical tests and examinations that establish the existence of the medical condition that the individual asserts prevented compliance with the testing for illegal use of controlled substances or from completing an appropriate substance abuse treatment program.

(G) Evidence at the Hearing.

1. Written medical reports, medical records, reports of medical review officers, chain of custody documentation, drug test results, treatment records from an appropriate substance abuse treatment program, laboratory reports and results, and the contents of the aforementioned documents submitted by the individual or the Family Support Division at the hearing are declared to be competent evidence and admissible into evidence at the hearing to be considered by the hearing officer along with any other evidence or testimony submitted.

2. Written medical reports, medical records, reports of medical review officers, chain of custody documentation, drug test results, treatment records from an appropriate substance abuse treatment program, laboratory reports and results, and the contents of the aforementioned documents purporting to be executed and signed by the medical doctor or other appropriate authority, its agents or employees accompanied by a business record affidavit that meets the requirements of section 490.692, RSMo, shall be prima facie evidence of it being properly executed and signed without further proof of identification.

3. Written medical reports, medical records, reports of medical review officers, chain of custody documentation, drug test results, treatment records from an appropriate substance abuse treatment program, laboratory reports and results, and the contents of the aforementioned documents reporting a positive drug test result shall create a rebuttable presumption that the individual has tested positive for the illegal use of a controlled substance in violation of section 208.027, RSMo, or has failed to successfully complete an appropriate substance abuse treatment program. The entry of the written medical reports, medical records, reports of medical review officers, chain of custody documentation, drug test results, treatment records from an appropriate substance abuse treatment program, laboratory reports and results, and the contents of the aforementioned documents reporting a positive drug test result or the failure to successfully complete an appropriate substance abuse treatment program into evidence at the administrative hearing required by either subsection (1)(A) or (1)(B) shall shift the burden of proof to the individual to refute the presumption.

(H) The hearing shall be on the record.

(4) The hearing officer in an administrative hearing required by either subsection (1)(A) or (1)(B) shall make specific written findings of fact and conclusions of law pertinent to the questions in issue. The findings of fact and conclusions of law shall be based solely upon the evidence introduced into the record at the hearing. Copies of the decision of the hearing officer shall be mailed to the individual and their attorney at law or legal guardian and the Family Support Division.

(5) Judicial Review.

(A) Any applicant for or recipient of Temporary Assistance who has an automatic administrative hearing under subsection (1)(A) may obtain judicial review pursuant to sections 536.100 to 536.140, RSMo.

(B) Any applicant for or recipient of Temporary Assistance who may request the director provide an administrative hearing under subsection (1)(B) may obtain judicial review pursuant to section 208.100, RSMo.

AUTHORITY: section 208.027, RSMo Supp. 2011. Original rule filed June 29, 2012.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions one hundred eighty thousand eight hundred eighty-eight dollars (\$180,888) in state fiscal year 2013.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Social Services, PO Box 1527, Jefferson City, MO 65102-1527. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: Department of Social Services
Division Title: Family Support Division
Chapter Title: Income Maintenance**

Rule Number and Name:	13 CSR 40-2.440
Type of Rulemaking:	Proposed Rulemaking

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
	\$180,888.00 in state fiscal year 2013

III. WORKSHEET

House Bill Nos. 73 & 47 requires DSS to establish a system to screen, test and sanction applicants for and recipients of Temporary Assistance (TA) benefits for illegal drug use. The bill requires DSS/FSD to develop a program to screen TA applicants and recipients, and then test for the illegal use of a controlled substance, based on reasonable cause from the screening, using a urine dipstick five-panel test, when they are otherwise eligible for TA. Those individuals who test positive shall have the opportunity to comply with a substance abuse treatment program approved by the Department of Mental Health. If they fail to comply with treatment, test positive within six months of entering a treatment program, or refuse to submit to the screening or the drug test, the individual is ineligible for TA for a period of three years (§208.027.1). When this occurs, DSS/FSD is required to appoint a protective payee for the other eligible members of the TA household, so they may continue to receive TA benefits (§208.027.3).

DSS/DLS estimates a need of one hearing officer and two attorneys to handle the additional caseload.

In March 2011, there were 37,363 adult recipients of TANF benefits. In addition, approximately 36,624 new adult applicants are approved annually, for a total of 73,987 people who would be subject to drug screening and testing. FSD submitted several different plans for drug testing, and the plan that tested the least number of people was to test 10% of the population. Based on that number, DLS assumed that 50% test negative and 50% will test positive. Positive results automatically are given a hearing. The hearings will take between 1 1/2 - 2 hours to complete.

Personal Service:

One Hearing Officer annual salary: \$42,504

Two Legal Council annual salary (\$44,220 each): \$88,440

Total PS: \$130,944

Each staff person has specific start-up and ongoing needs. The following is the request for each staff person:

On-Going E&E:

Travel (\$2,000 per year)

Office Supplies, Postage, Publications/Subscriptions (\$3,729)

Memberships/Professional Development (\$160)

Telephone (\$240)

Rent (200 sq feet per person X \$13 = \$2,600 per person)

Total On-Going E&E: \$26,187 annually for 3 FTE.

One time needs E&E (per FTE):

Professional Desk (\$497)

Chair (\$379)

Side Chair (\$139)

File Cabinet (\$555)

PC (\$645)

Calculator (\$69)

Telephone Installation (\$600)

Systems Furniture Setup (\$5035)

Total one-time needs are (3FTE): \$23,757

Total cost to handle additional hearings is \$180,888. ($\$130,944 + \$26,187 + \$23,757 = \$180,888$)

IV. ASSUMPTIONS

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 40—Family Support Division
Chapter 2—Income Maintenance**

PROPOSED RULE

13 CSR 40-2.450 Assignment of a Protective Payee Over Temporary Assistance Benefits When the Head of Household is Declared Ineligible for Temporary Assistance Pursuant to 13 CSR 40-2.400 through 13 CSR 40-2.440

PURPOSE: This rule adds the requirement that all recipients for Temporary Assistance benefits who are age eighteen (18) or older and are the head-of-household and who become ineligible as set forth in 13 CSR 40-2.400 through 13 CSR 40-2.440 will have a protective payee assigned to administer the Temporary Assistance benefit.

(1) The Family Support Division shall require the assignment of a protective payee any time the Temporary Assistance head-of-household refuses to complete the screening process as set forth in 13 CSR 40-2.410.

(2) The Family Support Division shall require the assignment of a protective payee any time the Temporary Assistance head-of-household refuses to submit to a drug test for the illegal use of a controlled substance as set forth in 13 CSR 40-2.420.

(3) The Family Support Division shall require the assignment of a protective payee any time the Temporary Assistance head-of-household tests positive for the illegal use of a controlled substance and does not enter or successfully complete a substance abuse treatment program as set forth in 13 CSR 40-2.430.

(4) The Family Support Division shall designate the protective payee, within forty-five (45) days of the administrative hearing decision that affirms the division as outlined in 13 CSR 40-2.440, or when a new protective payee must be designated.

(A) A relative, friend, clergy person, or other qualified adult may be designated as the protective payee.

(B) The protective payee shall certify to the division he/she meets the following qualifications before being appointed to be a protective payee:

1. Over the age of twenty-one (21);
2. Able to read, write, and willing and able to act in a fiduciary capacity to handle funds on behalf of another person;
3. Has the ability to keep his/her current residence and mailing address on file at all times with the Family Support Division and keep the individual and other household members informed of his/her current address and contact information;
4. Able to maintain records and account for the use of funds as provided in this regulation;
5. The Department of Social Services has not established a claim against him/her for fraud or misuse arising from any program administered by the Department of Social Services;
6. Has not been convicted, pled guilty or nolo contendere, or received a suspended imposition of sentence (regardless of whether incarceration actually occurred) of any felony;
7. Has not been convicted, pled guilty or nolo contendere, or received a suspended imposition of sentence (regardless of whether incarceration actually occurred) of any misdemeanor set forth in Chapter 570, RSMo;
8. Has not been convicted, pled guilty or nolo contendere, or received a suspended imposition of sentence (regardless of whether incarceration actually occurred) of any misdemeanor involving the use and/or possession of controlled substances;
9. Has not been convicted, pled guilty or nolo contendere, or received a suspended imposition of sentence (regardless of whether incarceration actually occurred) of any misdemeanor involving the

ineligible individual or a family member that is in the Temporary Assistance household;

10. Has not been placed on the central registry maintained by the Department of Social Services for any actions or inaction involving the ineligible individual or a family member that is in the Temporary Assistance household; and

11. Has no civil or criminal court order that hinders the ability of the protective payee to perform any duties as provided in this regulation.

(C) The protective payee has an affirmative obligation to notify the division of any changes in circumstances that would affect his/her qualifications to serve as protective payee as set forth in section (4) including changes in his/her address or contact information within ten (10) days of the change.

(5) A person shall not be qualified to serve as a protective payee under the following circumstances:

(A) The person does not meet the qualifications set out in section (4) of this regulation; or

(B) The person makes any false statements in the certification as set out in section (4) of this regulation.

(6) Responsibilities of the protective payee include:

(A) Acting in a fiduciary capacity on behalf of the members of the Temporary Assistance household when receiving and using the Temporary Assistance benefits under this regulation;

(B) Keeping receipts and other records necessary and appropriate to document how he or she has spent or otherwise utilized the Temporary Assistance benefits paid to the protective payee under this regulation;

(C) Providing an accounting to the individual, to other household members or their legal representative and/or the Family Support Division for the receipt and expenditure of all Temporary Assistance benefits paid under this regulation; and

(D) Providing copies of the receipts and other documents to the individual or the division upon request.

(7) The protective payee must use the Temporary Assistance benefits as follows:

(A) To meet the needs of the Temporary Assistance household. Approved uses may include, but are not limited to the following examples: clothing, food, household supplies such as cleaning supplies and sanitary supplies, medicine, school supplies for children in the household, utility payments, rent, and activities for the children;

(B) Shall not be used to meet the needs of the protective payee or to compensate the protective payee for managing the Temporary Assistance benefits;

(C) Shall not be given to or used in any way to benefit the ineligible individual, or an individual or entity that does not provide a need for the Temporary Assistance household;

(D) Shall not be utilized to purchase controlled substances without a prescription from a licensed health care professional; and

(E) Any payments made to the protective payee that are utilized in violation of this regulation shall be considered a misuse of Temporary Assistance benefits.

(8) The Family Support Division may remove and designate a new protective payee when—

(A) The protective payee fails to use the benefits as set out in section (7) of this regulation;

(B) The protective payee fails to meet the qualifications in section (4); and

(C) A protective payee who has been previously removed shall be disqualified from serving as a protective payee under this regulation.

(9) The Family Support Division may remove the protective payee at such time when the head-of-household is no longer ineligible for Temporary Assistance benefits as set forth in 13 CSR 40-2.400 through 13 CSR 40-2.440.

AUTHORITY: section 208.027, RSMo Supp. 2011. Original rule filed June 29, 2012.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Social Services, PO Box 1527, Jefferson City, MO 65102-1527. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 10—Nursing Home Program**

PROPOSED AMENDMENT

13 CSR 70-10.016 Global Per Diem Adjustments to Nursing Facility and HIV Nursing Facility Reimbursement Rates. The division is adding paragraph (3)(A)16.

PURPOSE: This amendment provides for a per diem increase to nursing facility and HIV nursing facility reimbursement rates by granting a trend adjustment resulting in an increase of six dollars and zero cents (\$6.00) effective for dates of service beginning July 1, 2012.

(3) Adjustments to the Reimbursement Rates. Subject to the limitations prescribed in 13 CSR 70-10.015, a nursing facility's reimbursement rate may be adjusted as described in this section. Subject to the limitations prescribed in 13 CSR 70-10.080, an HIV nursing facility's reimbursement rate may be adjusted as described in this section.

(A) Global Per Diem Rate Adjustments. A facility with either an interim rate or a prospective rate may qualify for the global per diem rate adjustments. Global per diem rate adjustments shall be added to the specified cost component ceiling.

1. FY-96 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1995, shall be granted an increase to their per diem effective October 1, 1995, of four and six-tenths percent (4.6%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., and the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

2. FY-97 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1996, shall be granted an increase to their per diem effective October 1, 1996, of three and seven-tenths percent (3.7%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., and the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

3. Nursing Facility Reimbursement Allowance (NFRA). Effective October 1, 1996, all facilities with either an interim rate or a prospective rate shall have its per diem adjusted to include the cur-

rent NFRA as an allowable cost in its reimbursement rate calculation.

4. Minimum wage adjustment. All facilities with either an interim rate or a prospective rate in effect on November 1, 1996, shall be granted an increase to their per diem effective November 1, 1996, of two dollars and forty-five cents (\$2.45) to allow for the change in minimum wage. Utilizing Fiscal Year 1995 cost report data, the total industry hours reported for each payroll category was multiplied by the fifty-cent (50¢) increase, divided by the patient days for the facilities reporting hours for that payroll category and factored up by eight and sixty-seven hundredths percent (8.67%) to account for the related increase to payroll taxes. This calculation excludes the director of nursing, the administrator, and assistant administrator.

5. Minimum wage adjustment. All facilities with either an interim rate or a prospective rate in effect on September 1, 1997, shall be granted an increase to their per diem effective September 1, 1997, of one dollar and ninety-eight cents (\$1.98) to allow for the change in minimum wage. Utilizing Fiscal Year 1995 cost report data, the total industry hours reported for each payroll category was multiplied by the forty-cent (40¢) increase, divided by the patient days for the facilities reporting hours for that payroll category and factored up by eight and sixty-seven hundredths percent (8.67%) to account for the related increase to payroll taxes. This calculation excludes the director of nursing, the administrator, and assistant administrator.

6. FY-98 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1997, shall be granted an increase to their per diem effective October 1, 1997, of three and four-tenths percent (3.4%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., and the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015 for nursing facilities and 13 CSR 70-10.080 for HIV nursing facilities; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1995, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

7. FY-99 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on October 1, 1998, shall be granted an increase to their per diem effective October 1, 1998, of two and one-tenth percent (2.1%) of the cost determined in paragraphs (11)(A)1., (11)(B)1., (11)(C)1., the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015 for nursing facilities and 13 CSR 70-10.080 for HIV nursing facilities, and the minimum wage adjustments detailed in paragraphs (3)(A)4. and (3)(A)5. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on October 1, 1998, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

8. FY-2000 negotiated trend factor—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 1999, shall be granted an increase to their per diem effective July 1, 1999, of one and ninety-four hundredths percent (1.94%) of the cost determined in subsections (11)(A), (11)(B), (11)(C), the property insurance and property taxes detailed in subsection (11)(D) of 13 CSR 70-10.015 for nursing facilities and 13 CSR 70-10.080 for HIV nursing facilities, and the minimum wage adjustments detailed in paragraphs (3)(A)4. and (3)(A)5. of this regulation; or

B. Facilities that were granted a prospective rate based on paragraph (12)(A)2. of 13 CSR 70-10.015 that is in effect on July 1, 1999, shall have their increase determined by subsection (3)(S) of 13 CSR 70-10.015.

9. FY-2004 nursing facility operations adjustment—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 2003, shall be granted an increase to their per diem effective for dates of service beginning July 1, 2003, through June

30, 2004, of four dollars and thirty-two cents (\$4.32) for the cost of nursing facility operations. Effective for dates of service beginning July 1, 2004, the per diem adjustment shall be reduced to three dollars and seventy-eight cents (\$3.78).

B. The operations adjustment shall be added to the facility's current rate as of June 30, 2003, and is effective for payment dates after August 1, 2003.

10. FY-2007 quality improvement adjustment—

A. Facilities with either an interim rate or prospective rate in effect on July 1, 2006, shall be granted an increase to their per diem effective for dates of service beginning July 1, 2006, of three dollars and seventeen cents (\$3.17) to improve the quality of life for nursing facility residents.

B. The quality improvement adjustment shall be added to the facility's current rate as of June 30, 2006, and is effective for dates of service beginning July 1, 2006, and after.

11. FY-2007 trend adjustment.

A. Facilities with either an interim rate or a prospective rate in effect on February 1, 2007, shall be granted an increase to their per diem rate effective for dates of service beginning February 1, 2007, of three dollars and zero cents (\$3.00) to allow for a trend adjustment to ensure quality nursing facility services.

B. The trend adjustment shall be added to the facility's reimbursement rate as of January 31, 2007, and is effective for dates of service beginning February 1, 2007, for payment dates after March 1, 2007.

12. FY-2008 trend adjustment.

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2007, shall be granted an increase to their per diem rate effective for dates of service beginning July 1, 2007, of six dollars and zero cents (\$6.00) to allow for a trend adjustment to ensure quality nursing facility services.

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2007, and is effective for dates of service beginning July 1, 2007.

13. FY-2009 trend adjustment.

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2008, shall be granted an increase to their per diem rate effective for dates of service beginning July 1, 2008, of six dollars and zero cents (\$6.00) to allow for a trend adjustment to ensure quality nursing facility services.

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2008, and is effective for dates of service beginning July 1, 2008.

14. FY-2010 trend adjustment.

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2009, shall be granted an increase to their per diem rate effective for dates of service beginning July 1, 2009, of five dollars and fifty cents (\$5.50) to allow for a trend adjustment to ensure quality nursing facility services.

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2009, and is effective for dates of service beginning July 1, 2009.

15. FY-2012 trend adjustment.

A. Facilities with either an interim rate or a prospective rate in effect on October 1, 2011, shall be granted an increase to their per diem rate effective for dates of service beginning October 1, 2011, of six dollars and zero cents (\$6.00) to allow for a trend adjustment to ensure quality nursing facility services.

B. The trend adjustment shall be added to the facility's current rate as of September 30, 2011, and is effective for dates of service beginning October 1, 2011.

C. This increase is contingent upon the federal assessment rate limit increasing to six percent (6%) and is subject to approval by the Centers for Medicare and Medicaid Services.

16. FY-2013 trend adjustment.

A. Facilities with either an interim rate or a prospective rate in effect on July 1, 2012, shall be granted an increase to their

per diem rate effective for dates of services beginning July 1, 2012, of six dollars and zero cents (\$6.00) to allow for a trend adjustment to ensure quality nursing facility services.

B. The trend adjustment shall be added to the facility's current rate as of June 30, 2012, and is effective for dates of service beginning July 1, 2012.

C. This increase is contingent upon approval by the Centers for Medicare and Medicaid Services.

AUTHORITY: section 208.159, RSMo 2000, and sections 208.153 and 208.201, RSMo Supp. [2010] 2011. Original rule filed July 1, 2008, effective Jan. 30, 2009. For intervening history, please consult the Code of State Regulations. Amended: Filed June 20, 2012.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately \$53,784,192 in SFY 2013.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title:** Title 13 - Department of Social Services
Division Title: Division 70 - MO HealthNet Division
Chapter Title: Chapter 10 - Nursing Home Program

Rule Number and Name:	13 CSR 70-10.016 Global Per Diem Adjustments to Nursing Facility and HIV Nursing Facility Reimbursement Rates
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services MO HealthNet Division	Estimated cost for SFY 2013: \$53,784,192

III. WORKSHEET

Description	NFRA Add-On Increase	Effect on Hospice in NF	Total Impact
Estimated Paid Days: SFY 2013	8,396,046 \$6.00	597,880 \$5.70	
Total Estimated Impact: SFY 2013	\$50,376,276	\$3,407,916	\$53,784,192
State Share (NFRA fund)	\$19,198,399	\$1,298,757	\$20,497,156
Federal Share (61.89%)	\$31,177,877	\$2,109,159	\$33,287,036

IV. ASSUMPTIONS**Estimated Paid Days:****Nursing Facility:**

The estimated paid days for SFY 2013 are based on the actual Medicaid days paid for nursing facility services during SFY 2012, increased by .5% for 2013.

Hospice:

The estimated paid days for SFY 2013 for hospice are based on the actual hospice days provided in nursing facilities from January 2011 through December 2011.

Effect on Hospice:

Hospice providers are reimbursed 95% of the nursing facility per diem for hospice participants residing in a nursing facility. The total increase to the nursing facility per diem is \$6.00. The increase to hospice reimbursement rates resulting from this amendment is \$5.70 (\$6.00 x 95%).

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 10—Nursing Home Program**

PROPOSED AMENDMENT

13 CSR 70-10.110 Nursing Facility Reimbursement Allowance.
The division is adding subsection (2)(O).

PURPOSE: This amendment provides for a change in the Nursing Facility Reimbursement Allowance rate to twelve dollars and eleven cents (\$12.11) effective for dates of service July 1, 2012.

(2) NFRA Rates. The NFRA rates determined by the division, as set forth in **subsection (1)(B)** above, are as follows:

(M) Effective January 1, 2010, the NFRA will be nine dollars and twenty-seven cents (\$9.27) per patient occupancy day. The applicable quarterly survey shall be as defined in subsection (2)(K); *[and]*

(N) Effective October 1, 2011, the NFRA will be eleven dollars and seventy cents (\$11.70) per patient occupancy day. The applicable quarterly survey shall be as defined in subsection (2)(K). *[.]*; **and**

(O) Effective July 1, 2012, the NFRA will be twelve dollars and eleven cents (\$12.11) per patient occupancy day. The applicable quarterly survey shall be as defined in subsection (2)(K).

AUTHORITY: sections 198.401, 198.403, 198.406, 198.409, 198.412, 198.416, 198.418, 198.421, 198.424, 198.427, 198.431, 198.433, 198.436, and 208.159, RSMo 2000, and sections 198.439, 208.153, and 208.201, RSMo Supp. [2010] 2011. Emergency rule filed Dec. 21, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency rule filed April 21, 1995, effective May 1, 1995, expired Aug. 28, 1995. Original rule filed Dec. 15, 1994, effective July 30, 1995. For intervening history, please consult the Code of State Regulations. Emergency amendment filed June 20, 2012, effective July 1, 2012, expires Dec. 28, 2012. Amended: Filed July 2, 2012.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately \$3,675,552 for SFY 2013.

PRIVATE COST: This proposed amendment will result in a net cost to private entities of approximately \$2,660,605 for SFY 2013 (total increase in NFRA of \$6,102,984 less the increased reimbursement to nursing facilities due to NFRA being an allowable cost of \$3,442,379 yields a net impact of \$2,660,605).

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the Missouri Register. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: Department of Social Services**
Division Title: MO HealthNet Division
Chapter Title: Nursing Home Program

Rule Number and Name:	13 CSR 70-10.110 Nursing Facility Reimbursement Allowance
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Department of Social Services MO HealthNet Division	Estimated cost for SFY 2013: \$3,675,552

III. WORKSHEET

Description	NFRA Add-On Increase	Effect on Hospice in NF	Total Impact
Estimated Paid Days: SFY 2013	8,396,046	597,880	
X NFRA Per Diem Rate Increase	.41	.39	
Total Estimated Impact: SFY 2013	\$3,442,379	\$233,173	\$3,675,552
State Share (NFRA fund)	\$1,311,891	\$88,862	\$1,400,753
Federal Share (61.89%)	\$2,130,488	\$144,311	\$2,274,799

IV. ASSUMPTIONS

This proposed NFRA rate change will change the reimbursement rates for nursing facilities since the NFRA is an allowable cost for reimbursement under 13 CSR 70-10.015.

Estimated Paid Days:**Nursing Facility:**

The estimated paid days for SFY 2013 are based on the actual Medicaid days paid for nursing facility services during SFY 2012, increased by 0.5% for 2013.

Hospice:

The estimated paid days for SFY 2013 for hospice are based on the actual hospice days provided in nursing facilities from January 2011 through December 2011.

NFRA Add-On Increase:

An increase in the NFRA assessment of \$0.41 from \$11.70 to \$12.11 effective July 1, 2012 has an impact to nursing facilities under 13 CSR 70-10.015. The NFRA assessment is an allowable cost for reimbursement and is accounted for as an add-on to the per diem rate under 13 CSR 70-10.015; therefore, the cost has been included in this fiscal note.

Effect on Hospice:

Hospice providers are reimbursed 95% of the nursing facility per diem for hospice participants residing in a nursing facility. The total increase to the nursing facility per diem is \$0.41. The increase to hospice reimbursement rates resulting from this amendment is \$0.39 ($\$0.41 \times 95\%$).

**FISCAL NOTE
PRIVATE COST**

- I. Department Title:** Department of Social Services
Division Title: MO HealthNet Division
Chapter Title: Nursing Facility Program

Rule Number and Title:	13 CSR 70-10.110 Nursing Facility Reimbursement Allowance (NFRA)
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
520	Nursing Facilities	Annual estimated cost for SFY 2013: \$2,660,605

III. WORKSHEET

SFY 2013:

Estimated Assessment Days: SFY 2013 14,885,328

\$11.70 NFRA Rate

Estimated Assessment Days: 14,885,328
 x NFRA Rate \$ 11.70
 Total Estimated Impact \$ 174,158,338

\$12.11 NFRA Rate

Estimated Assessment Days: 14,885,328
 x NFRA Rate \$ 12.11
 Total Estimated Impact \$ 180,261,322

Total Difference SFY 2013 July 2012 - June 2013 \$ 6,102,984

Less: Increase in Nursing Facility Rate due to NFRA being an Allowable Cost (per 13 CSR 70-10.015)
 (See Public Cost Fiscal Note for additional detail) (\$ 3,442,379)

Net Impact to Private Entities \$ 2,660,605

IV. ASSUMPTIONS

Effective July 1, 2012 the Nursing Facility Reimbursement Allowance (NFRA) rate changes from eleven dollars and seventy cents (\$11.70) to twelve dollars and eleven cents (\$12.11) resulting in an increase of \$.41. The determination of the number of assessment days for SFY 2013 is in the current regulation. These days were multiplied by the NFRA rate in effect of \$11.70 which would occur if the proposed amendment was not implemented. The

same number of days was multiplied by the proposed NFRA rate of \$12.11. The difference between the total impact for the \$11.70 and \$12.11 NFRA rates is the total impact.

The nursing facility reimbursement regulation, 13 CSR 70-10.015, allows NFRA as an allowable, reimbursable cost. To account for the NFRA being an allowable cost, the current NFRA rate is included as part of the nursing facility's total reimbursement rate. With this NFRA rate increase of \$.41, nursing facilities will be given a corresponding reimbursement rate increase of the same amount. This increased reimbursement will reduce the impact of the NFRA increase for nursing facilities by the same amount as computed in the Public Cost Fiscal Note.

After SFY 2013 these amounts (the increased NFRA collections and increased reimbursement) will become part of the core budget and continue annually until amended.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 15—Hospital Program

PROPOSED AMENDMENT

13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Services Reimbursement Methodology. The division is amending section (3).

PURPOSE: This amendment provides for the State Fiscal Year (SFY) 2013 trend factor to be applied in determining FRA funded hospital payments for SFY 2013.

(3) Per Diem Reimbursement Rate Computation. Each hospital shall receive a MO HealthNet per diem rate based on the following computation.

(B) Trend Indices (TI). Trend indices are determined based on the four- (4-)/- quarter average DRI Index for DRI-Type Hospital Market Basket as published in *Health Care Costs* by DRI/McGraw-Hill for each State Fiscal Year (SFY) 1995 to 1998. Trend indices starting in SFY 1999 will be determined based on CPI Hospital indexed as published in *Health Care Costs* by DRI/McGraw-Hill for each State Fiscal Year (SFY).

1. The TI are—

- A. SFY 1994—4.6%
- B. SFY 1995—4.45%
- C. SFY 1996—4.575%
- D. SFY 1997—4.05%
- E. SFY 1998—3.1%
- F. SFY 1999—3.8%
- G. SFY 2000—4.0%
- H. SFY 2001—4.6%
- I. SFY 2002—4.8%
- J. SFY 2003—5.0%
- K. SFY 2004—6.2%
- L. SFY 2005—6.7%
- M. SFY 2006—5.7%
- N. SFY 2007—5.9%
- O. SFY 2008—5.5%
- P. SFY 2009—5.5%
- Q. SFY 2010—3.9%

R. SFY 2011—3.2%—The 3.2% trend shall not be applied in determining the per diem rate, Direct Medicaid payments, or uninsured payments.

S. SFY 2012—4.0%

T. SFY 2013—4.4%

2. The TI for SFY 1996 through SFY 1998 are applied as a full percentage to the OC of the per diem rate and for SFY 1999 the OC of the June 30, 1998, rate shall be trended by 1.2% and for SFY 2000 the OC of the June 30, 1999, rate shall be trended by 2.4%. The OC of the June 30, 2000, rate shall be trended by 1.95% for SFY 2001.

3. The per diem rate shall be reduced as necessary to avoid any negative Direct Medicaid payments computed in accordance with subsection (15)(B).

4. A facility previously enrolled for participation in the MO HealthNet Program, which either voluntarily or involuntarily terminates its participation in the MO HealthNet Program and which reenters the MO HealthNet Program, shall have its MO HealthNet rate determined in accordance with section (4).

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions \$87.7 million annually.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the **Missouri Register**. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

AUTHORITY: sections 208.152, 208.153, and 208.201, RSMo Supp. [2010] 2011. This rule was previously filed as 13 CSR 40-81.050. Original rule filed Feb. 13, 1969, effective Feb. 23, 1969. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed June 20, 2012, effective July 1, 2012, expires Dec. 28, 2012. Amended: Filed June 20, 2012.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title:** Title 13 - Department of Social Services
Division Title: Division 70 - MO HealthNet Division
Chapter Title: Chapter 15 – Hospital Program

Rule Number and Title:	13 CSR 70-15.010 Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Services Reimbursement Methodology
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimate Cost of Compliance in the Aggregate
Department of Social Services, MO HealthNet Division	SFY 2013 Impact: Total Cost = \$87.7 million; State Share = \$33.4 million

III. WORKSHEET

Estimated Cost for SFY 2013:

Estimated Payments with 4.4% Trend	\$2,246,870,177
Estimated Payments without 4.4% Trend	<u>\$2,159,125,586</u>
Estimate Impact of 4.4% Trend	\$87,744,591
 State Share Percentage	 <u>38.11%</u>
State Share	\$33,439,464

IV. ASSUMPTIONS

The estimated cost is based upon the data in FRA 13-1. The base year for the SFY 2013 payments are the 2009 cost reports, which are trended by 4.4%.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 15—Hospital Program

PROPOSED AMENDMENT

13 CSR 70-15.110 Federal Reimbursement Allowance (FRA).
The division is amending section (1).

PURPOSE: This amendment provides for the State Fiscal Year (SFY) 2013 trend factor to be applied to the inpatient and outpatient adjusted net revenues determined from the FRA fiscal year cost report.

(1) Federal Reimbursement Allowance (FRA). FRA shall be assessed as described in this section.

(A) Definitions.

1. Bad debts—Amounts considered to be uncollectible from accounts and notes receivable that were created or acquired in providing services. Allowable bad debts include the costs of caring for patients who have insurance, but their insurance does not cover the particular service procedures or treatment rendered.

2. Base cost report—Desk-reviewed Medicare/Medicaid cost report. When a hospital has more than one (1) cost report with periods ending in the base year, the cost report covering a full twelve- (12-)/- month period will be used. If none of the cost reports covers a full twelve (12) months, the cost report with the latest period will be used. If a hospital's base cost report is less than or greater than a twelve- (12-)/- month period, the data shall be adjusted, based on the number of months reflected in the base cost report, to a twelve- (12-)/- month period.

3. Charity care—Those charges written off by a hospital based on the hospital's policy to provide health care services free of charge or at a reduced charge because of the indigence or medical indigence of the patient.

4. Contractual allowances—Difference between established rates for covered services and the amount paid by third-party payers under contractual agreements. The Federal Reimbursement Allowance (FRA) is a cost to the hospital, regardless of how the FRA is remitted to the MO HealthNet Division, and shall not be included in contractual allowances for determining revenues. Any redistributions of MO HealthNet payments by private entities acting at the request of participating health care providers shall not be included in contractual allowances or determining revenues or cost of patient care.

5. Department—Department of Social Services.

6. Director—Director of the Department of Social Services.

7. Division—MO HealthNet Division, Department of Social Services.

8. Engaging in the business of providing inpatient health care—Accepting payment for inpatient services rendered.

9. Federal Reimbursement Allowance (FRA)—The fee assessed to hospitals for the privilege of engaging in the business of providing inpatient health care in Missouri. The FRA is an allowable cost to the hospital.

10. Fiscal period—Twelve- (12-)/- month reporting period determined by each hospital.

11. Gross hospital service charges—Total charges made by the hospital for inpatient and outpatient hospital services that are covered under 13 CSR 70-15.010.

12. Hospital—A place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care for not fewer than twenty-four (24) hours in any week of three (3) or more nonrelated individuals suffering from illness, disease, injury, deformity, or other abnormal physical conditions; or a place devoted primarily to provide, for not fewer than twenty-four (24) hours in any week, medical or nursing care for three (3) or more nonrelated individuals. The term hospital does not include convalescent, nursing, shelter, or boarding homes as defined in Chapter 198, RSMo.

13. Hospital revenues subject to FRA assessment effective July 1, 2008—Each hospital's inpatient adjusted net revenues and outpatient adjusted net revenues subject to the FRA assessment will be determined as follows:

A. Obtain "Gross Total Charges" from Worksheet G-2, Line 25, Column 3, of the third prior year cost report (i.e., FRA fiscal year cost report) for the hospital. Charges shall exclude revenues for physician services. Charges related to activities subject to the Missouri taxes assessed for outpatient retail pharmacies and nursing facility services shall also be excluded. "Gross Total Charges" will be reduced by the following:

(I) "Nursing Facility Charges" from Worksheet C, Part I, Line 35, Column 6.

(II) "Swing Bed Nursing Facility Charges" from Worksheet G-2, Line 5, Column 1.

(III) "Nursing Facility Ancillary Charges" as determined from the Department of Social Services, MO HealthNet Division, nursing home cost report. (Note: To the extent that the gross hospital charges, as specified in subparagraph (1)(A)13.A. above, include long-term care charges, the charges to be excluded through this step shall include all long-term care ancillary charges including skilled nursing facility, nursing facility, and other long-term care providers based at the hospital that are subject to the state's provider tax on nursing facility services.)

(IV) "Distinct Part Ambulatory Surgical Center Charges" from Worksheet G-2, Line 22, Column 2.

(V) "Ambulance Charges" from Worksheet C, Part I, Line 65, Column 7.

(VI) "Home Health Charges" from Worksheet G-2, Line 19, Column 2.

(VII) "Total Rural Health Clinic Charges" from Worksheet C, Part I, Column 7, Lines 63.50–63.59.

(VIII) "Other Non-Hospital Component Charges" from Worksheet G-2, Lines 6, 8, 21, 21.02, 23, and 24.

B. Obtain "Net Revenue" from Worksheet G-3, Line 3, Column 1. The state will ensure this amount is net of bad debts and other uncollectible charges by survey methodology.

C. "Adjusted Gross Total Charges" (the result of the computations in subparagraph (1)(A)13.A.) will then be further adjusted by a hospital-specific collection-to-charge ratio determined as follows:

(I) Divide "Net Revenue" by "Gross Total Charges"; and

(II) "Adjusted Gross Total Charges" will be multiplied by the result of part (1)(A)13.C.(I) to yield "Adjusted Net Revenue."

D. Obtain "Gross Inpatient Charges" from Worksheet G-2, Line 25, Column 1, of the most recent cost report that is available for a hospital.

E. Obtain "Gross Outpatient Charges" from Worksheet G-2, Line 25, Column 2, of the most recent cost report that is available for a hospital.

F. Total "Adjusted Net Revenue" will be allocated between "Net Inpatient Revenue" and "Net Outpatient Revenue" as follows:

(I) "Gross Inpatient Charges" will be divided by "Gross Total Charges";

(II) "Adjusted Net Revenue" will then be multiplied by the result to yield "Net Inpatient Revenue"; and

(III) The remainder will be allocated to "Net Outpatient Revenue."

G. The trend indices listed below will be applied to the apportioned inpatient adjusted net revenue and outpatient adjusted net revenue in order to inflate or trend forward the adjusted net revenues from the FRA fiscal year cost report to the current state fiscal year to determine the inpatient and outpatient adjusted net revenues subject to the FRA assessment.

(I) SFY 2009 = 5.50%

(II) SFY 2009 Missouri Specific Trend = 1.50%

(III) SFY 2010 = 3.90%

(IV) SFY 2010 Missouri Specific Trend = 1.50%

(V) SFY 2011 = 3.20%

(VI) SFY 2012 = 5.33%

(VII) SFY 2013 = 4.4%

14. Net operating revenue—Gross charges less bad debts, less charity care, and less contractual allowances times the trend indices listed in 13 CSR 70-15.010(3)(B).

15. Other operating revenues—The other operating revenue is total other revenue less government appropriations, less donations, and less income from investments times the trend indices listed in 13 CSR 70-15.010(3)(B).

*AUTHORITY: sections 208.201 and 208.453, RSMo Supp. [2010] 2011, and section 208.455, RSMo 2000. Emergency rule filed Sept. 21, 1992, effective Oct. 1, 1992, expired Jan. 28, 1993. Emergency rule filed Jan. 15, 1993, effective Jan. 25, 1993, expired May 24, 1993. Original rule filed Sept. 21, 1992, effective June 7, 1993. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed June 20, 2012, effective July 1, 2012, expires Dec. 28, 2012. Amended: Filed July 2, 2012.*

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in SFY 2013.

PRIVATE COST: The FRA will raise approximately \$1.063 billion for SFY 2013 (July 1, 2012–June 30, 2013), of which \$44.8 million is attributable to the trend factor that is the subject of this proposed amendment.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the **Missouri Register**. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*

**FISCAL NOTE
PRIVATE COST**

- I. Department Title:** Title 13 - Department of Social Services
Division Title: Division 70 - MO HealthNet Division
Chapter Title: Chapter 15 – Hospital Program

Rule Number and Title:	13 CSR 70-15.110 Federal Reimbursement Allowance (FRA)
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
147	Hospitals	Estimated cost for SFY 2013 \$1.063 billion

III. WORKSHEET

	No. of Facilities	Inpatient Revenues	Outpatient Revenues	Total
Private Facilities Revenues	102	\$7,972,461,788	\$6,541,759,963	\$14,514,221,751
Public Facilities Revenues	45	\$1,397,320,272	\$1,195,606,859	\$2,592,927,131
Total Revenues	147	\$9,369,782,060	\$7,737,366,822	\$17,107,148,882
FRA Assessment Rate		5.95%	5.95%	5.95%
Total Assessment without Trend		\$557,502,033	\$460,373,326	\$1,017,875,358
Revenue Trend 4.4%		4.40%	4.40%	4.40%
Total Revenues Trended to 4.4%		\$9,782,052,471	\$8,077,810,962	\$17,859,863,433
FRA Assessment Rate		5.95%	5.95%	5.95%
Total Assessment with Trend		\$582,032,122	\$480,629,752	\$1,062,661,874
Impact of Trend (Assessment with trend less Assessment without trend)				\$44,786,516
Prior SFY Total Assessment using Prior Year Methodology				\$1,005,795,954
Increase of Total Assessment over Prior SFY				\$56,865,920

IV. ASSUMPTIONS

This fiscal note reflects the total assessment to be collected during SFY 2013 of approximately \$1.063 billion and is an increase of approximately \$56.9 million over SFY 2012. The impact of the 4.4% trend is approximately \$44.8 million.

The fiscal note is based on establishing the FRA assessment rate at 5.95% and a trend of 4.4% effective for dates of service beginning July 1, 2012. The FRA assessment rate of 5.95% is levied upon Missouri hospitals' trended, inpatient and outpatient net adjusted revenue in accordance with the Missouri Partnership Plan.

As indicated above, 45 of the total 147 hospitals are owned or controlled by the state, counties, cities, or hospital districts.

Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—MO HealthNet Division
Chapter 15—Hospital Program

PROPOSED AMENDMENT

13 CSR 70-15.160 Prospective Outpatient Hospital Services Reimbursement Methodology. The division is amending section (1).

PURPOSE: This amendment provides for a change to increase the prospective outpatient rate for federally-designated critical access hospitals and state-designated critical access hospitals for dates of service July 1, 2012, through June 30, 2013.

(1) Prospective Outpatient Hospital Services Reimbursement Percentage for Hospitals Located Within Missouri.

(C) Outpatient Hospital Services Reimbursement Limited by Rule.

1. Effective for dates of service September 1, 1985, and annually updated, certain clinical diagnostic laboratory procedures will be reimbursed from a Medicaid fee schedule which shall not exceed a national fee limitation.

2. Effective for service dates beginning October 1, 2011, and annually updated, the technical component of outpatient radiology procedures will be reimbursed from a Medicaid fee schedule. Medicaid fee schedule amounts will be based on one hundred twenty-five percent (125%) of the Medicare Physician fee schedule rate using Missouri Locality 01. The list of affected procedure codes and the Medicaid fee schedule rate for the technical component of outpatient radiology procedures will be published on the MO HealthNet website at www.dss.mo.gov/mhd beginning October 1, 2011.

3. Effective for service dates October 1, 2011, through June 30, 2012, hospitals which meet the federal definition of Critical Access Hospital (CAH) found in section 1820(c)(2)(B) of the Social Security Act will receive a five percent (5%) increase to their prospective outpatient payment percentage rate determined in accordance with subsection (1)(A).

4. Effective for service dates July 1, 2012, through June 30, 2013, hospitals which meet the federal definition of Critical Access Hospital (CAH) found in section 1820(c)(2)(B) of the Social Security Act will receive a five percent (5%) increase to their prospective outpatient payment percentage rate determined in accordance with subsection (1)(A).

5. Effective for service dates July 1, 2012, through June 30, 2013, hospitals which meet the state definition of Critical Access Hospital (CAH) defined in 13 CSR 70-15.010 will receive a three percent (3%) increase to their prospective outpatient payment percentage rate determined in accordance with subsection (1)(A).

[4.]6. Services of hospital-based physicians and certified registered nurse anesthetists shall be billed on a CMS-1500 professional claim form and reimbursed from a Medicaid fee schedule or the billed charge, if less. The CMS-1500 professional claim form is incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website at www.dss.mo.gov/mhd, November 1, 2010. This rule does not incorporate any subsequent amendments or additions.

[5.]7. Outpatient hospital services provided for those recipients having available Medicare benefits shall be reimbursed by Medicaid to the extent of the deductible and coinsurance as imposed under Title XVIII.

[6.]8. Effective for payment dates beginning October 1, 2010, reimbursement of Medicare/Medicaid crossover claims (crossover claims) for Medicare Part B and Medicare Advantage/Part C outpatient hospital services with dates of service on or after January 1, 2010, except for public hospitals operated by the Department of Mental Health (DMH), shall be determined as follows:

A. Crossover claims for Medicare Part B outpatient hospital services in which Medicare was the primary payer and the MO HealthNet Division (MHD) is the payer of last resort for cost-sharing (i.e., coinsurance, copay, and/or deductibles) must meet the following criteria to be eligible for MHD reimbursement:

(I) The crossover claim must be related to Medicare Part B outpatient hospital services that were provided to MO HealthNet participants also having Medicare Part B coverage; and

(II) The crossover claim must contain approved outpatient hospital services which MHD is billed for cost-sharing; and

(III) The Other Payer paid amount field on the claim must contain the actual amount paid by Medicare. The MO HealthNet provider is responsible for accurate and valid reporting of crossover claims submitted to MHD for payment regardless of how the claim is submitted. Providers submitting crossover claims for Medicare Part B outpatient hospital services to MHD must be able to provide documentation that supports the information on the claim upon request. The documentation must match the information on the Medicare Part B plan's remittance advice. Any amounts paid by MHD that are determined to be based on inaccurate data will be subject to recoupment;

B. Crossover claims for Medicare Advantage/Part C (Medicare Advantage) outpatient hospital services in which a Medicare Advantage plan was the primary payer and MHD is the payer of last resort for cost-sharing (i.e., coinsurance, copay, and/or deductibles) must meet the following criteria to be eligible for MHD reimbursement:

(I) The crossover claim must be related to Medicare Advantage outpatient hospital services that were provided to MO HealthNet participants who also are either a Qualified Medicare Beneficiary (QMB Only) or Qualified Medicare Beneficiary Plus (QMB Plus); and

(II) The crossover claim must be submitted as a Medicare UB-04 Part C Professional Crossover claim through the MHD online [Internet] billing system; and

(III) The crossover claim must contain approved outpatient hospital services which MHD is billed for cost-sharing; and

(IV) The Other Payer paid amount field on the claim must contain the actual amount paid by the Medicare Advantage plan. The MO HealthNet provider is responsible for accurate and valid reporting of crossover claims submitted to MHD for payment. Providers submitting crossover claims for Medicare Advantage outpatient hospital services to MHD must be able to provide documentation that supports the information on the claim upon request. The documentation must match the information on the Medicare Advantage plan's remittance advice. Any amounts paid by MHD that are determined to be based on inaccurate data will be subject to recoupment;

C. MHD reimbursement for approved outpatient hospital services. MHD will reimburse seventy-five percent (75%) of the allowable cost-sharing amount; and

D. MHD will continue to reimburse one hundred percent (100%) of the allowable cost-sharing amounts for outpatient services provided by public hospitals operated by DMH as set forth above in paragraph (1)(C)4.

AUTHORITY: sections 208.152, 208.153, and 208.201, RSMo Supp. 2011. Emergency rule filed June 20, 2002, effective July 1, 2002, expired Feb. 27, 2003. Original rule filed June 14, 2002, effective Jan. 30, 2003. For intervening history, please consult the Code of State Regulations. Emergency amendment filed June 20, 2012, effective July 1, 2012, expires Dec. 28, 2012. Amended: Filed June 20, 2012.

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions \$13.4 million annually.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate for SFY 2013.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the **Missouri Register**. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.*

**FISCAL NOTE
PUBLIC COST**

- I. Department Title:** Title 13 - Department of Social Services
Division Title: Division 70 - MO HealthNet Division
Chapter Title: Chapter 15 – Hospital Program

Rule Number and Title:	13 CSR 70-15.160 Prospective Outpatient Hospital Services Reimbursement Methodology
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimate Cost of Compliance in the Aggregate
Department of Social Services, MO HealthNet Division	SFY 2013 Impact: Total Cost = \$13.4 million; State Share = \$5.1 million

III. WORKSHEET**Estimated Cost for SFY 2013:**

Estimated Payments with Increased OP % for State and Federally Designated CAH	\$628,856,828
Estimated Payments without Increased OP % for State and Federally Designated CAH	<u>\$615,469,980</u>
Estimated Impact of Increased OP % for State and Federally Designated CAH	\$13,386,848
State Share Percentage	<u>38.11%</u>
State Share	\$5,101,728

IV. ASSUMPTIONS

The flat percentage increase was added the estimated SFY 2013 OP rate with no MM-1 adjustment.

OP charges from calendar year 2011 were trended to 2013 by the hospital specific trend in OP charges.

Title 16—RETIREMENT SYSTEMS
Division 10—The Public School Retirement System of Missouri
Chapter 4—Membership and Creditable Service

PROPOSED AMENDMENT

16 CSR 10-4.012 Payment for Reinstatement and Credit Purchases. The Retirement System is amending section (9).

PURPOSE: This amendment deletes from the existing rule the option to complete payment for a purchase of Public Education Employee Retirement System credit after disability retirement.

(9) If a member dies before retirement or retires on service or disability retirement after having made partial payments but not payment in full to reinstate or purchase credit, the partial payments will be refunded to the member's beneficiary or the retiree if proportional credit is not allowable by law or by rule of the board of trustees. If proportional credit is allowable, the payments will be credited to the member's accumulated contributions and proportional credit will be allowed. If a member retires on disability retirement before completing payment for a reinstatement of credit *for for a purchase of Public Education Employee Retirement System of Missouri (PEERS) credit* only, the balance due with interest shall be deducted from the disability retirement allowance as provided by law. Only payments purchasing less than first one-one-hundred thousandth (0.00001) year of credit will be refunded.

AUTHORITY: section 169.020, RSMo Supp. [2010] 2011. Original rule filed June 23, 1998, effective Jan. 30, 1999. For intervening history, please consult the Code of State Regulations. Amended: Filed July 2, 2012.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Public School and Education Employee Retirement Systems of Missouri, Attn: M. Steve Yoakum, PO Box 268, Jefferson City, MO 65102-0268. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS
Division 10—The Public School Retirement System of Missouri
Chapter 5—Retirement, Options and Benefits

PROPOSED AMENDMENT

16 CSR 10-5.010 Service Retirement. The Retirement System is amending section (15) and adding a new section to be numbered section (18).

PURPOSE: This amendment clarifies and expands on the existing rule that sets forth the procedure for naming successor beneficiaries and clarifies the effective date of a retirement allowance increase due to a member following the death of a joint and survivor beneficiary.

(15) *[The effective date of] Any actuarial adjustment to a retirement allowance payment made because of the nomination of a successor beneficiary as provided in [House Bill 496 enacted by the 87th General Assembly] 169.141, RSMo, shall [be the next regular payment date following receipt in the retirement office of the] take effect in the month a properly completed nomination of successor beneficiary form is received by the Retirement System or the month of the retiree's marriage to the successor beneficiary, whichever occurs later. The nomination of a successor beneficiary shall be effective immediately upon receipt by the Retirement System of the properly completed nomination of successor beneficiary form or the date of the retiree's marriage to the successor beneficiary, whichever occurs later.*

(18) If the designated joint and survivor beneficiary of a retiree who elected Option 2, 3, or 4 dies before the retired member, the retired member's retirement allowance will be increased to the amount the retired member would be receiving had the retired member elected Option 1. The increase in retirement allowance shall be effective the month of the beneficiary's death.

AUTHORITY: section 169.020, RSMo Supp. [2010] 2011. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. For intervening history, please consult the Code of State Regulations. Amended: Filed July 2, 2012.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Public School and Education Employee Retirement Systems of Missouri, Attn: M. Steve Yoakum, PO Box 268, Jefferson City, MO 65102-0268. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS
Division 10—The Public School Retirement System of Missouri
Chapter 6—The Public Education Employee Retirement System of Missouri

PROPOSED AMENDMENT

16 CSR 10-6.045 Payment for Reinstatement and Credit Purchases. The Retirement System is amending the title of the rule and section (7).

PURPOSE: This amendment deletes from the existing rule the option to complete payment for a purchase of Public School Retirement System credit after disability retirement.

(7) If a member dies before retirement or retires on service or disability retirement after having made partial payments but not payment in full to reinstate or purchase credit, the partial payments will be refunded to the member's beneficiary or the retiree if proportional credit is not allowable by law or by rule of the board of trustees. If proportional credit is allowable, the payments will be credited to the member's accumulated contributions and proportional credit will be allowed. If a member retires on disability retirement before completing payment for a reinstatement of credit *for for a purchase of Public School Retirement System of Missouri (PSRS) credit*

only, the balance due with interest shall be deducted from the disability retirement allowance as provided by law. **Only payments purchasing less than first one-one-hundred thousandth (0.00001) year of credit will be refunded.**

AUTHORITY: section 169.610, RSMo Supp. [2010] 2011. Original rule filed June 15, 1994, effective Nov. 30, 1994. For intervening history, please consult the Code of State Regulations. Amended: Filed July 2, 2012.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Public School and Education Employee Retirement Systems of Missouri, Attn: M. Steve Yoakum, PO Box 268, Jefferson City, MO 65102-0268. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 16—RETIREMENT SYSTEMS

Division 10—The Public School Retirement System of Missouri

Chapter 6—The Public Education Employee Retirement System of Missouri

PROPOSED AMENDMENT

16 CSR 10-6.060 Service Retirement. The Retirement System is amending section (8) and adding a new section to be numbered section (14).

PURPOSE: This amendment clarifies and expands on the existing rule that sets forth the procedure for naming successor beneficiaries and clarifies the effective date of a retirement allowance increase due to a member following the death of a joint and survivor beneficiary.

(8) [The effective date of] **Any actuarial adjustment** to a retirement allowance payment made because of the nomination of a successor beneficiary as provided in [House Bill 496 enacted by the 87th General Assembly] **169.715, RSMo**, shall [be the next regular payment date following receipt in the retirement office of the] **take effect in the month** a properly completed nomination of successor beneficiary form [(see 16 CSR 10-5.010)] is received by the Retirement System or the month of the retiree's marriage to the successor beneficiary, whichever occurs later. The nomination of a successor beneficiary shall be effective immediately upon receipt by the Retirement System of the properly completed nomination of successor beneficiary form or the date of the retiree's marriage to the successor beneficiary, whichever occurs later.

(14) If the designated joint and survivor beneficiary of a retiree who elected Option 2, 3, or 4 dies before the retired member, the retired member's retirement allowance will be increased to the amount the retired member would be receiving had the retired member elected Option 1. The increase in retirement allowance shall be effective the month of the beneficiary's death.

AUTHORITY: section 169.610, RSMo Supp. [2009] 2011. Original rule filed Dec. 19, 1975, effective Jan. 1, 1976. For intervening his-

tory, please consult the Code of State Regulations. Amended: Filed July 2, 2012.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Public School and Education Employee Retirement Systems of Missouri, Attn: M. Steve Yoakum, PO Box 268, Jefferson City, MO 65102-0268. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

Division 2205—Missouri Board of Occupational Therapy

Chapter 1—General Rules

PROPOSED AMENDMENT

20 CSR 2205-1.050 Fees. The board is proposing to amend subsections (1)(D) and (1)(E).

PURPOSE: The Board of Occupational Therapy is statutorily obligated to enforce and administer the provisions of sections 324.050 to 324.089, RSMo. Pursuant to sections 324.065 and 324.074, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 324.050 to 324.089, RSMo, so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the committee for administering the provisions. Therefore, the committee is proposing a one- (1-) time reduction of the biennial renewal fees.

(1) The Division of Professional Registration establishes the following fees which are nonrefundable:

- | | |
|--|---------|
| (D) Biennial Occupational Therapist License
Renewal Fee | \$55.00 |
| 1. Effective July 1, 2013, to June 30, 2015, for the 2013 renewal period | \$30.00 |
| 2. Effective July 1, 2015, beginning with the 2015 renewal period | \$55.00 |
| (E) Biennial Occupational Therapy Assistant License
Renewal Fee | \$30.00 |
| 1. Effective July 1, 2013, to June 30, 2015, for the 2013 renewal period | \$25.00 |
| 2. Effective July 1, 2015, beginning with the 2015 renewal period | \$30.00 |

AUTHORITY: section[s] 324.065, 324.068, and] 324.074, RSMo 2000, and sections 324.065 and 324.068, RSMo Supp. 2011. This rule originally filed as 4 CSR 205-1.050. Original rule filed Aug. 4, 1998, effective Dec. 30, 1998. For intervening history, please consult the Code of State Regulations. Amended: Filed June 25, 2012.

PUBLIC COST: This proposed amendment will cost state agencies approximately fifty-six thousand dollars (\$56,000) in the aggregate. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

PRIVATE COST: This proposed amendment will save private entities approximately fifty-six thousand dollars (\$56,000) in the aggregate. It is anticipated that the costs will recur for the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Occupational Therapy, PO Box 1335, Jefferson City, MO 65102, by facsimile at (573) 526-3489, or via email at ot@pr.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

PUBLIC FISCAL NOTE**I. RULE NUMBER****Title 20 -Department of Insurance, Financial Institutions and Professional Registration****Division 2205 - Missouri Board of Occupational Therapy****Chapter 1 - General Rules****Proposed Amendment to 20 CSR 2205-1.050 Fees**

Prepared June 22, 2012 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT**Estimated Fiscal Impact**

Affected Agency or Political Subdivision	Estimated Revenue	
Missouri Board of Occupational Therapy		(56,000)
	Estimated Revenue for FY2013 Renewal Period	(56,000)

III. WORKSHEET

See Private Entity Fiscal Note

IV. ASSUMPTION

1. The total loss of revenue is based on the cost savings reflected in the Private Entity Fiscal Note filed with this amendment.
2. The board utilizes a rolling five year financial analysis process to evaluate its fund balance, establish fee structure, and assess budgetary needs. The five year analysis is based on the projected revenue, expenses, and number of licensees. Based on the board's recent five year analysis, the board voted on a one-time twenty-five dollar (\$25) reduction in the biennial occupational therapist license renewal fee and a one-time five dollar (\$5) reduction in the biennial occupational therapy assistant license renewal fee.

Note: The public fiscal note for this rule only reflects the cost for this particular process. However, private entity fees are set at an amount to cover the total actual cost incurred by the office, which includes personal service, expense and equipment, and transfers.

PRIVATE FISCAL NOTE

I. RULE NUMBER

Title 20 -Department of Insurance, Financial Institutions and Professional Registration

Division 2205 - Missouri Board of Occupational Therapy

Chapter 1 - General Rules

Proposed Amendment to 20 CSR 2205-1.050 Fees

Prepared June 22, 2012 by the Division of Professional Registration

II. SUMMARY OF FISCAL IMPACT

Estimate the number of entities by class which would likely be affected by the adoption of the proposed amendment:	Classification by type of the business entities which would likely be affected:	Estimated cost of compliance with the amendment by affected entities:
2,100	Occupational Therapist (Renewal Fee Decrease @ \$25)	\$52,500
700	Occupational Therapy Assistant (Renewal Fee Decrease @ \$5)	\$3,500
Estimated Savings for FY2013 Renewal Period		\$56,000

III. WORKSHEET

See Table Above

IV. ASSUMPTION

1. The above figures are based on FY09-FY11 actuals.

Note: The board is statutorily obligated to enforce and administer the provisions of sections 324.050 to 324.089, RSMo. Pursuant to section 324.065, RSMo, the board shall by rule and regulation set the amount of fees authorized by sections 324.050 to 324.089, RSMo so that the revenue produced is sufficient, but not excessive, to cover the cost and expense to the board for administering the provisions of sections 324.050 to 324.089, RSMo.

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order or rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 25—Pesticides**

ORDER OF RULEMAKING

By the authority vested in the Department of Agriculture under section 281.065, RSMo 2000, the director amends a rule as follows:

2 CSR 70-25.065 Acceptable Insurance and Bond Forms for Commercial Applicators **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 571). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 30—Feeds**

ORDER OF RULEMAKING

By the authority vested in the Department of Agriculture under section 266.195, RSMo 2000, the director amends a rule as follows:

2 CSR 70-30.110 Assessment of Administrative Penalties **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 571–572). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 70—Plant Industries
Chapter 30—Feeds**

ORDER OF RULEMAKING

By the authority vested in the Department of Agriculture under section 266.195, RSMo 2000, the director amends a rule as follows:

2 CSR 70-30.115 Processed Animal Waste Products as Animal Feed Ingredients **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 572–573). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 80—State Milk Board
Chapter 1—Organization and Description**

ORDER OF RULEMAKING

By the authority vested in the State Milk Board under section 196.939, RSMo 2000, the board amends a rule as follows:

2 CSR 80-1.010 General Organization **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 573). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 80—State Milk Board
Chapter 2—Grade “A” Pasteurized Milk Regulations**

ORDER OF RULEMAKING

By the authority vested in the State Milk Board under section 196.939, RSMo 2000, the board amends a rule as follows:

2 CSR 80-2.020 Sale of Adulterated, Misbranded Milk, or Milk Products **is amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 573). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 80—State Milk Board
Chapter 2—Grade “A” Pasteurized Milk Regulations**

ORDER OF RULEMAKING

By the authority vested in the State Milk Board under section 196.939, RSMo 2000, the board amends a rule as follows:

2 CSR 80-2.030 Permits is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 573–574). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 80—State Milk Board
Chapter 2—Grade “A” Pasteurized Milk Regulations**

ORDER OF RULEMAKING

By the authority vested in the State Milk Board under section 196.939, RSMo 2000, the board amends a rule as follows:

2 CSR 80-2.040 Labeling is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 574). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 80—State Milk Board
Chapter 2—Grade “A” Pasteurized Milk Regulations**

ORDER OF RULEMAKING

By the authority vested in the State Milk Board under section 196.939, RSMo 2000, the board amends a rule as follows:

**2 CSR 80-2.050 Inspection Frequency and Procedure
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 574–575). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed

amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 80—State Milk Board
Chapter 2—Grade “A” Pasteurized Milk Regulations**

ORDER OF RULEMAKING

By the authority vested in the State Milk Board under section 196.939, RSMo 2000, the board amends a rule as follows:

**2 CSR 80-2.060 The Examination of Milk and Milk Products
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 575). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 80—State Milk Board
Chapter 2—Grade “A” Pasteurized Milk Regulations**

ORDER OF RULEMAKING

By the authority vested in the State Milk Board under section 196.939, RSMo 2000, the board amends a rule as follows:

**2 CSR 80-2.070 Standards for Milk and Milk Products
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 575–577). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 80—State Milk Board
Chapter 2—Grade “A” Pasteurized Milk Regulations**

ORDER OF RULEMAKING

By the authority vested in the State Milk Board under section 196.939, RSMo 2000, the board amends a rule as follows:

2 CSR 80-2.080 Animal Health is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 577). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 80—State Milk Board
Chapter 2—Grade “A” Pasteurized Milk Regulations**

ORDER OF RULEMAKING

By the authority vested in the State Milk Board under section 196.939, RSMo 2000, the board amends a rule as follows:

**2 CSR 80-2.091 Milk and Milk Products Which May Be Sold
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 577-578). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 80—State Milk Board
Chapter 2—Grade “A” Pasteurized Milk Regulations**

ORDER OF RULEMAKING

By the authority vested in the State Milk Board under section 196.939, RSMo 2000, the board amends a rule as follows:

**2 CSR 80-2.101 Transferring; Delivery Containers; Cooling
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 578). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 80—State Milk Board
Chapter 2—Grade “A” Pasteurized Milk Regulations**

ORDER OF RULEMAKING

By the authority vested in the State Milk Board under section 196.939, RSMo 2000, the board amends a rule as follows:

**2 CSR 80-2.110 Milk and Milk Products from Points Beyond the
Limits of Routine Inspection is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 578). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 80—State Milk Board
Chapter 2—Grade “A” Pasteurized Milk Regulations**

ORDER OF RULEMAKING

By the authority vested in the State Milk Board under section 196.939, RSMo 2000, the board amends a rule as follows:

**2 CSR 80-2.121 Future Dairy Farms and Milk Plants
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 578-579). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 80—State Milk Board
Chapter 2—Grade “A” Pasteurized Milk Regulations**

ORDER OF RULEMAKING

By the authority vested in the State Milk Board under section 196.939, RSMo 2000, the board amends a rule as follows:

2 CSR 80-2.130 Personnel Health is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 579). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 80—State Milk Board
Chapter 2—Grade “A” Pasteurized Milk Regulations**

ORDER OF RULEMAKING

By the authority vested in the State Milk Board under section 196.939, RSMo 2000, the board amends a rule as follows:

**2 CSR 80-2.141 Procedure When Infection is Suspected
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 579-580). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 80—State Milk Board
Chapter 2—Grade “A” Pasteurized Milk Regulations**

ORDER OF RULEMAKING

By the authority vested in the State Milk Board under section 196.939, RSMo 2000, the board amends a rule as follows:

2 CSR 80-2.151 Enforcement is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 580). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 80—State Milk Board
Chapter 2—Grade “A” Pasteurized Milk Regulations**

ORDER OF RULEMAKING

By the authority vested in the State Milk Board under section 196.939, RSMo 2000, the board amends a rule as follows:

2 CSR 80-2.161 Penalty is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 580). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 80—State Milk Board
Chapter 2—Grade “A” Pasteurized Milk Regulations**

ORDER OF RULEMAKING

By the authority vested in the State Milk Board under section 196.939, RSMo 2000, the board amends a rule as follows:

2 CSR 80-2.170 Separability Clause is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 581). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 80—State Milk Board
Chapter 2—Grade “A” Pasteurized Milk Regulations**

ORDER OF RULEMAKING

By the authority vested in the State Milk Board under section 196.939, RSMo 2000, the board amends a rule as follows:

2 CSR 80-2.180 Adoption of the Grade “A” Pasteurized Milk Ordinance (PMO), 2011 Revision of the United States Department of Health and Human Services, Public Health Service, Food and Drug Administration is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 581). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 2—DEPARTMENT OF AGRICULTURE
Division 80—State Milk Board
Chapter 4—Grade “A” Raw Milk for Pasteurization and Grade “A” Milk or Milk Products from Points Beyond the Limits of Routine Inspection**

ORDER OF RULEMAKING

By the authority vested in the State Milk Board under section 196.949, RSMo Supp. 2011, the board amends a rule as follows:

2 CSR 80-4.010 Rules for Import Milk is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 581–582). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits**

ORDER OF RULEMAKING

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule as follows:

3 CSR 10-7.440 is amended.

This rule establishes hunting seasons and limits and is exempted by section 536.021, RSMo, from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-7.440 by establishing seasons and limits for hunting migratory game birds and waterfowl during the 2012 season.

3 CSR 10-7.440 Migratory Game Birds and Waterfowl: Seasons, Limits

PURPOSE: This amendment establishes season dates and bag limits for hunting migratory game birds and waterfowl within frameworks established by the U.S. Fish and Wildlife Service for the 2012 season.

(3) Seasons and limits are as follows:

(E) Blue-winged, green-winged, and cinnamon teal may be taken from sunrise to sunset from September 8 through September 23. Limits: four (4) teal in the aggregate of species daily; eight (8) in possession;

SUMMARY OF COMMENTS: Seasons and limits are exempted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment was filed June 26, 2012, and becomes effective **August 1, 2012**.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 20—Division of Learning Services
Chapter 100—Office of Quality Schools**

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 160.545 and 161.092, RSMo Supp. 2011, the board amends a rule as follows:

5 CSR 20-100.200 A+ Schools Program is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 2, 2012 (37 MoReg 507–509). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 45—Division of Developmental Disabilities
Chapter 2—Eligibility for Services**

ORDER OF RULEMAKING

By the authority vested in the Department of Mental Health under section 630.050, RSMo Supp. 2011, the department amends a rule as follows:

**9 CSR 45-2.010 Eligibility for Services From the Division of
Developmental Disabilities is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 1, 2012 (37 MoReg 337–352). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 45—Division of Developmental Disabilities
Chapter 2—Eligibility for Services**

ORDER OF RULEMAKING

By the authority vested in the Department of Mental Health under sections 630.050 and 633.110, RSMo Supp. 2011, the department amends a rule as follows:

**9 CSR 45-2.015 Prioritizing Access to Funded Services
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 1, 2012 (37 MoReg 352–355). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 45—Division of Developmental Disabilities
Chapter 2—Eligibility for Services**

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Mental Health under section 630.050, RSMo Supp. 2011, the department amends a rule as follows:

9 CSR 45-2.017 Utilization Review Process is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 1, 2012 (37 MoReg 355–377). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Mental Health received two (2) comments from Jhan Hurn, Chief Executive Officer, Community Support Services of Missouri, a private provider of targeted case management for persons with developmental disabilities in southwest Missouri.

COMMENT #1: Mr. Hurn requested that not-for-profit entities providing targeted case management also be allowed to establish a utilization review committee, in addition to County Boards for Developmental Disabilities (also known as “Senate Bill 40 Boards”). RESPONSE: While the Department of Mental Health (DMH) does have the authority under the Medicaid State Plan to contract with not-for-profit entities for the provision of targeted case management services, only County Boards for Developmental Disabilities are legally eligible to participate in the non-federal share of the cost of Medicaid services through a process known as Intergovernmental Transfer. Because Utilization Review Committees have authority to make recommendations to the division which have a fiscal impact to DMH expenditures for home and community-based Medicaid services, the DMH is unable to extend this privilege to a not-for-profit, non-governmental entity that does not have the ability to contribute to the cost of Medicaid services.

COMMENT #2: Mr. Hurn expressed concerns about the time lines set forth in sections (4) and (5) of the rule, regarding the annual submission of service plans to the Utilization Review Committee two (2) months prior to the date service plans expire, and when service plans require a change but the situation is not an emergency. RESPONSE: The Centers for Medicare and Medicaid Services (CMS) has granted the state of Missouri authority to operate the home and community-based waivers on the condition the state meet assurances which are detailed in federal law. One assurance is all waiver participants must have an individual service plan, and that plan must be reviewed and updated no less frequently than annually (three hundred sixty-five (365) days). The state is required to monitor performance, collect data, and report to CMS the state’s adherence to the waiver assurances. All service plans completed three hundred sixty-six (366) days or more subsequent to the previous service plan are considered out of compliance with the waiver authority. These time frames were established in the original rule to ensure the state stays in compliance with federal mandates. Another federal

assurance is the state must protect the health and welfare of all waiver participants. Failure to respond to the changing service needs of a waiver participant in a timely manner could jeopardize health and welfare. In addition, participants have a right to appeal all denials of service, and a delay in implementation of a new service or increased level of service due to a change in needs could be appealed by the participant or their legal representative. Thus, the DMH has established time lines to ensure changes in service plans that will result in additional cost can be reviewed by the Utilization Review Committee and approved by the director or designee as quickly as feasible.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 45—Division of Developmental Disabilities
Chapter 2—Eligibility for Services**

ORDER OF RULEMAKING

By the authority vested in the Department of Mental Health under section 630.050, RSMo Supp. 2011, the department amends a rule as follows:

**9 CSR 45-2.020 Appeals Procedures for Service Eligibility
Through the Division of Developmental Disabilities
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 1, 2012 (37 MoReg 377-379). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri**

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo Supp. 2011, the commission amends a rule as follows:

10 CSR 10-6.060 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 1, 2012 (37 MoReg 379-383). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received three (3) comments from the U.S. Environmental Protection Agency on this rule amendment.

COMMENT #1: The Environmental Protection Agency (EPA) commented that Missouri may want to consider using the phrase — promulgated as of — or similar language in order to make clear which rules Missouri is intending to incorporate. EPA notes that the *Code of Federal Regulations* is not actually published on July 1, but more accurately contains a codification of regulations which have been promulgated or revised as of July 1.

RESPONSE AND EXPLANATION OF CHANGE: The department's Air Pollution Control Program agrees to make the change EPA suggests in referring to the *Code of Federal Regulations*. This change will make the incorporation by reference clear.

COMMENT #2: EPA commented that they recently proposed a revision to the definition of — regulated NSR pollutant — contained in the regulations for Prevention of Significant Deterioration and in the EPA's Emission Offset Interpretative Rule (77 FR 15656). Since Missouri is proposing to incorporate by reference updates through July 1, 2011, in the *Code of Federal Regulations*, Missouri will then be adopting definitions which the EPA intends to revise.

RESPONSE: The department's Air Pollution Control Program cannot take action at this time since EPA's action is only proposed. Should EPA's proposed action become final, we will take action at the next available opportunity to update the rule. No change was made to the rule text as a result of this comment.

COMMENT #3: EPA commented on the importance of adopting the fine particulate matter (PM_{2.5}) New Source Review Implementation Rule provisions contained in this proposed rulemaking.

RESPONSE: The department's Air Pollution Control Program agrees with EPA on the importance of having Missouri's air permitting rules up-to-date with all necessary elements of a PM_{2.5} program. No change was made to the rule text as a result of this comment.

10 CSR 10-6.060 Construction Permits Required

(1) Applicability.

(A) Definitions. Definitions of certain terms used in this rule may be found in paragraph (b) of 40 CFR 52.21 which is incorporated by reference in subsection (8)(A) of this rule, except that—

1. Any provisions of 40 CFR 52.21(b) that are stayed shall not apply;

2. Solely for the purposes of paragraph (1)(A)2. and section (7) of this rule, the following definitions shall be used in place of the definitions of the same terms specified elsewhere in this subsection:

A. Major stationary source is defined in 40 CFR 51.165(a)(1)(iv), promulgated as of July 1, 2011, and hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or additions. The term major, as used in this definition, shall be major for the nonattainment pollutant;

B. Major modification is defined in 40 CFR 51.165(a)(1)(v), promulgated as of July 1, 2011, and hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408, except that any incorporated provisions that are stayed shall not apply. This rule does not incorporate any subsequent amendments or additions. The term major, as used in this definition, shall be major for the nonattainment pollutant;

C. Net emissions increase is defined in 40 CFR 51.165(a)(1)(vi), promulgated as of July 1, 2011, and hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408, except that the term paragraph (a)(1)(xii)(B) shall be 40 CFR 52.21(b)(21)(ii). This rule does not incorporate any subsequent amendments or additions; and

D. Significant is defined in 40 CFR 51.165(a)(1)(x), promulgated as of July 1, 2011, and hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or additions;

3. Solely for the purposes of section (9) of this rule, the following definitions shall be used in addition to definitions specified elsewhere in this subsection:

A. Construct a major source—

(I) Fabricate, erect, or install, at any greenfield site, a stationary source or group of stationary sources which is located within a contiguous area and under common control and which emits or has the potential to emit ten (10) tons per year of any hazardous air pollutant (HAP) or twenty-five (25) tons per year of any combination of HAPs; or

(II) Fabricate, erect, or install, at any developed site, a new process or production unit which in and of itself emits or has the potential to emit ten (10) tons per year of any HAP or twenty-five (25) tons per year of any combination of HAPs;

B. Greenfield site—A contiguous area under common control that is an undeveloped site;

C. Process or production—Any collection of structures and/or equipment, that processes, assembles, applies, or otherwise uses material inputs to produce or store an intermediate or final product. A single facility may contain more than one (1) process or production unit;

D. Reconstruct a major source—Replace components at an existing process or production unit where the replacement of components in and of itself emits or has the potential to emit ten (10) tons per year of any HAP or twenty-five (25) tons per year of any combination of HAPs, whenever—

(I) The fixed capital cost of the new components exceeds fifty percent (50%) of the fixed capital cost that would be required to construct a comparable process or production unit; and

(II) It is technically and economically feasible for the reconstructed major source to meet the applicable maximum achievable control technology emission limitation for new sources established under this section;

E. Research and development activities—Activities conducted at a research or laboratory facility whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically-trained personnel and is not engaged in the manufacture of products for sale or exchange for commercial profit, except in a *de minimis* manner;

F. Similar source—A stationary source or process that has comparable emissions and is structurally similar in design and capacity to a constructed or reconstructed major source such that the source could be controlled using the same control technology; and

G. Definitions for certain terms, other than those defined in subparagraphs (1)(A)3.A. through F. of this rule, may be found in 40 CFR 63.41, promulgated as of July 1, 2011, and hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or additions;

4. Nonattainment pollutant—Each and every pollutant for which the location of the source is in an area designated to be in nonattainment of a National Ambient Air Quality Standard (NAAQS) under section 107(d)(1)(A)(i) of the Act. Any constituent or precursor of a nonattainment pollutant shall be a nonattainment pollutant, provided that the constituent or precursor pollutant may only be regulated under this rule as part of regulation of the corresponding NAAQS pollutant. Both volatile organic compounds (VOC) and nitrogen oxides (NO_x) shall be nonattainment pollutants for a source located in an area designated nonattainment for ozone;

5. The provisions of subsection (8)(B) of this rule regarding the term administrator shall apply; and

6. Definitions for certain terms used in this rule, other than those defined elsewhere in this subsection, may be found in 10 CSR 10-6.020.

(8) Attainment and Unclassified Area Permits.

(A) All of the subsections of 40 CFR 52.21, other than (a) Plan disapproval, (q) Public participation, (s) Environmental impact statements, and (u) Delegation of authority, promulgated as of July 1, 2011, and *Federal Register* Notice 76 FR 43507 promulgated July 20, 2011, are hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, DC 20408. This rule does not incorporate any subsequent amendments or additions.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo Supp. 2011, the commission amends a rule as follows:

10 CSR 10-6.065 Operating Permits is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 1, 2012 (37 MoReg 383–388). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received no comments on the proposed amendment.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo Supp. 2011, the commission amends a rule as follows:

10 CSR 10-6.260 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 1, 2012 (37 MoReg 388–392). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received three (3) comments from three (3) sources on this rule amendment: the U.S. Environmental Protection Agency, the Boeing Company St. Louis, and City Utilities.

COMMENT #1: The Environmental Protection Agency (EPA) commented that, in part (3)(B)3.A.(V), Missouri remove the language — within ninety (90) days of the date part — in addition to the already proposed deletion.

RESPONSE AND EXPLANATION OF CHANGE: The department's Air Pollution Control Program agrees with EPA's comment that additional language needs to be removed. The language has been removed and replaced. We believe this will make the requirements clear.

COMMENT #2: The Boeing Company commented in support of the proposed amendment as it will streamline the permitting process. Under the provisions of subsection (3)(B), companies such as Boeing that use #2 fuel oil as a backup fuel, as a matter of Title V compliance certification, have had to show that it would not cause or contribute to an exceedance of the sulfur dioxide National Ambient Air Quality Standards (NAAQS). The compliance certification for Boeing was based on detailed fuel sulfur calculations in the Title V Statement of Basis. Removal of subsection (3)(B) will be a significant streamlining improvement for those Title V permit holders like Boeing who are extremely unlikely to cause an ambient exceedance of either the old sulfur dioxide NAAQS or the new one.

RESPONSE: The department's Air Pollution Control Program appreciates Boeing's support of this proposed amendment. The Boeing Company provided the comment on 10 CSR 10-6.260 that initiated this rulemaking. No change was made to the rule text as a result of this comment.

COMMENT #3: City Utilities commented in support of the proposed amendment rescinding subsection (3)(B) as it is an appropriate and overdue measure to clean up the Missouri sulfur regulation. This subsection comes from an earlier rulemaking that consolidated four (4) separate geographical rules into a single statewide rule. This sulfur dioxide standard might be difficult to implement on a statewide basis, especially in urban area, and may be why the EPA did not add this as a federally enforceable provision in the Missouri State Implementation Plan.

RESPONSE: The department's Air Pollution Control Program appreciates City Utilities' support of this proposed amendment. No change was made to the rule text as a result of this comment.

10 CSR 10-6.260 Restriction of Emission of Sulfur Compounds

(3) General Provisions.

(B) Restriction of Emission of Sulfur Dioxide from Indirect Heating Sources.

1. Subsection (3)(B) of this rule applies to installations in which fuel is burned for the primary purpose of producing steam, hot water, or hot air or other indirect heating of liquids, gases, or solids and in the course of doing so the products of combustion do not come into direct contact with process materials. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitations shall apply.

2. Indirect heating sources located in Missouri, other than in Franklin, Jefferson, St. Louis, St. Charles Counties, or City of St. Louis.

A. No person shall cause or allow emissions of sulfur dioxide into the atmosphere from any indirect heating source in excess of eight pounds (8 lbs.) of sulfur dioxide per million Btus actual heat input averaged on any consecutive three (3)-hour time period unless that source is listed in Table I or subject to a provision of 10 CSR 10-6.070 New Source Performance Regulations with an applicable sulfur compound emission limit.

B. The following existing indirect heating sources listed in Table I shall limit their average sulfur emissions into the atmosphere to the allowable amount of sulfur dioxide per million Btus of actual heat input averaged on any consecutive three (3)-hour basis.

Table I

Facility	Averaging Time	Emission Rate per Unit (Pounds Sulfur Dioxide Per Million Btus)
Associated Electric Cooperative—New Madrid	3 hours	10.0
Associated Electric Cooperative—Thomas Hill	3 hours	8.0
Central Electric Power Cooperative—Chamais	3 hours	6.7
City Utilities—James River Plant*	24 hours	(Units 1–4) 1.5 (Unit 5) 2.0
Empire District Electric Company—Asbury Station	3 hours	12.0
Independence Power and Light—Blue Valley Station	3 hours	6.3
Trigen—Grand Ave. Plant	3 hours	7.1
Kansas City Power & Light—Hawthorn Plant**	30 day rolling	0.12
Kansas City Power & Light—Montrose Station	24 hours	3.9
Aquila—Sibley Plant	3 hours	9.0
Aquila—Lake Road Plant*	24 hours	(Boilers 1, 2, and 4) 0.0524 (Boiler 3) 0.0006 (Boiler 5) 1.3490 (Boiler 6)*** (Combustion Turbines 5, 6, and 7) 0.0511
University of Missouri—Columbia	3 hours	8.0

* Facility is subject to State Enforceable Agreement.

** Kansas City Power & Light—The SO₂ emission rate comes from the Prevention of Significant Deterioration permit for Unit 5A and is implemented in accordance with the terms of the permit.

*** Boiler 6 at the Lake Road Plant is limited to a 24-hour daily block average of 1,400 pounds of SO₂/hour.

C. Compliance with paragraph (3)(B)2. of this rule shall be determined by source testing as specified in subsection (5)(B) of this rule.

D. Other methods approved by the staff director in advance may be used.

E. Owners or operators of sources and installations subject to paragraph (3)(B)2. of this rule shall furnish the director such data as s/he may reasonably require to determine whether compliance is being met.

3. Indirect heating sources located in Franklin, Jefferson, St. Louis, St. Charles Counties, or City of St. Louis.

A. Restrictions applicable to installations with a capacity of two thousand (2,000) million or more Btus per hour.

(I) No person shall cause or permit the emission of sulfur dioxide to the atmosphere from any installation with a capacity of two thousand (2,000) million or more Btus per hour in an amount greater than two and three-tenths pounds (2.3 lbs.) of sulfur dioxide per million Btus of actual heat input averaged on any consecutive three (3)-hour time period unless that source is listed in part (3)(B)3.A.(II) of this rule or is subject to a provision of 10 CSR 10-6.070 New Source Performance Regulations with an applicable sulfur compound emission limit.

(II) The following existing installations shall limit their sulfur dioxide emissions into the atmosphere from the combustion of any fuels to the allowable amount of sulfur dioxide per million Btus of actual heat input listed:

Facility	Emission Rate per Unit* (Pounds Sulfur Dioxide Per Million Btus)
Ameren UE—Labadie Plant	4.8
Ameren UE— Portage des Sioux Plant	4.8

*Daily average, 00:01 to 24:00

(III) Owners or operators of sources and installations subject to paragraph (3)(B)3. of this rule shall furnish the director such data as s/he may reasonably require to determine whether compliance is being met.

(IV) Each source subject to limitations under subparagraph (3)(B)3.A. of this rule may emit sulfur dioxide at a rate not to exceed the allowable emission rate by more than twenty percent (20%) for not more than three (3) days in any one (1) month.

(V) Compliance with part (3)(B)3.A.(II) of this rule shall be demonstrated by sulfur dioxide and either carbon dioxide or oxygen continuous monitoring devices. The devices shall be certified by the owner or operator to be installed and operational in accordance with Performance Specifications 2 and 3, 40 CFR part 60, Appendix B. The devices shall also be operated and maintained in accordance with the procedures and standards set out at 40 CFR 60.13(d) and (e)(2).

(VI) Reports shall be as specified in section (4) of this rule.

B. Restrictions applicable to installations with a capacity of less than two thousand (2,000) million Btus per hour.

(I) During the months of October, November, December, January, February, and March of every year, no person shall burn or permit the burning of any coal containing more than two percent (2%) sulfur or of any fuel oil containing more than two percent (2%) sulfur in any installation having a capacity of less than two thousand (2,000) million Btus per hour. Otherwise, no person shall burn or permit the burning of any coal or fuel oil containing more than four percent (4%) sulfur in any installation having a capacity of less than two thousand (2,000) million Btus per hour.

(II) Part (3)(B)3.B.(I) of this rule shall not apply to any installation if it can be shown that emissions of sulfur dioxide from

the installation into the atmosphere will not exceed two and three-tenths (2.3) pounds per million Btus of heat input to the installation.

(III) Owners or operators of sources and installations subject to this section shall furnish the director such data as s/he may reasonably require to determine whether compliance is being met.

C. Compliance with paragraph (3)(B)3. of this rule shall be determined by source testing as specified in subsection (5)(B) of this rule.

D. Other methods approved by the staff director in advance may be used.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling
and Reference Methods and Air Pollution Control
Regulations for the Entire State of Missouri**

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo Supp. 2011, the commission amends a rule as follows:

10 CSR 10-6.410 Emissions Banking and Trading is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 1, 2012 (37 MoReg 392–393). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received no comments on the proposed amendment.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2110—Missouri Dental Board
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri Dental Board under sections 332.031, 332.141, and 332.151, RSMo 2000, and section 332.181, RSMo Supp. 2011, the board amends a rule as follows:

**20 CSR 2110-2.010 Licensure by Examination—Dentists
is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 604). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2110—Missouri Dental Board
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri Dental Board under sections 332.031 and 332.211, RSMo 2000, the board amends a rule as follows:

20 CSR 2110-2.030 Licensure by Credentials—Dentists
is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 604–605). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2110—Missouri Dental Board
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri Dental Board under sections 332.031, 332.231, 332.241, and 332.251, RSMo 2000, and section 332.261, RSMo Supp. 2011, the board amends a rule as follows:

20 CSR 2110-2.050 Licensure by Examination—Dental Hygienists
is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 605). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL
REGISTRATION
Division 2110—Missouri Dental Board
Chapter 2—General Rules**

ORDER OF RULEMAKING

By the authority vested in the Missouri Dental Board under sections 332.031 and 332.281, RSMo 2000, and section 332.261, RSMo Supp. 2011, the board amends a rule as follows:

20 CSR 2110-2.070 Licensure by Credentials—Dental Hygienists
is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on April 16, 2012 (37 MoReg 605–606). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

This section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs, and other items required to be published in the *Missouri Register* by law.

Title 2—DEPARTMENT OF AGRICULTURE
Division 90—Weights and Measures
FISCAL YEAR JULY 1, 2012–JUNE 30, 2013
BUDGET PLAN

PURPOSE: This proposed budget is filed in compliance with the provisions of section 323.025.10., RSMo Supp. 2011, which require the Missouri Propane Gas Commission to prepare and submit a budget plan for public comment.

INCOME:

Estimated Assessments*	\$490,970
Interest Income	\$ 281
Total Income:	\$491,251

EXPENSES:

Furnishings, Equipment and Vehicle (Depreciation and Amortization)	\$ 44,656
Rent, Utility, and Communication Expenses	\$ 22,440
Professional and Contract Services	\$ 31,000
Operating Expenses	\$ 15,700
Personnel Expenses	\$248,525
Employee Benefits	\$ 39,076
Inspection and Meeting Expenses	\$ 70,510
Commissioner Expenses	\$ 14,740
Insurance Expenses	\$ 6,683
Total Expenses:	\$493,330

*Assessment rates: \$0.00175

The deficit for the July 1, 2012, to June 30, 2013, budget will be funded with the Unrestricted Fund Balance from the previous fiscal years. The expected amount to be used from Unrestricted Fund Balance is \$2,079.

AUTHORITY: section 323.025.10., RSMo Supp. 2011.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed budget with the Missouri Propane Gas Commission, 4110 Country Club Drive, Ste. 200, Jefferson City, MO 65109-0302. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

Title 19—DEPARTMENT OF HEALTH AND
SENIOR SERVICES
Division 60—Missouri Health Facilities Review
Committee
Chapter 50—Certificate of Need Program

NOTIFICATION OF REVIEW:
APPLICATION REVIEW SCHEDULE

The Missouri Health Facilities Review Committee has initiated review of the applications listed below. A decision is tentatively

scheduled for August 22, 2012. These applications are available for public inspection at the address shown below:

Date Filed

Project Number: Project Name

City (County)

Cost, Description

7/11/12

#4810 RT: Rest Haven RCF

Fayette (Howard County)

\$1,227,500, Replace 26-bed and 56-bed RCF with 40-bed ALF

#4806 HT: Mercy Hospital Springfield

Springfield (Greene County)

\$1,550,480, Replace Mobile MRI

Any person wishing to request a public hearing for the purpose of commenting on these applications must submit a written request to this effect, which must be received by August 11, 2012. All written requests and comments should be sent to—

Chairman

Missouri Health Facilities Review Committee

c/o Certificate of Need Program

3418 Knipp Drive, Suite F

PO Box 570

Jefferson City, MO 65102

For additional information contact

Karla Houchins, (573) 751-6403.

**STATUTORY LIST OF CONTRACTORS
BARRED FROM PUBLIC WORKS PROJECTS**

The following is a list of contractor(s) who have been prosecuted and convicted of violating the Missouri Prevailing Wage Law, and whose Notice of Conviction has been filed with the Secretary of State pursuant to Section 290.330, RSMo. In addition, this list includes contractor(s) that have agreed to placement on the list maintained by the Secretary of State pursuant to Section 290.330 as a part of the resolution of criminal charges of violating the Missouri Prevailing Wage Law. Under this statute, no public body shall award a contract for public works to any contractor or subcontractor, or simulation thereof, during the time that such contractor or subcontractor's name appears on this state debarment list maintained by the Secretary of State.

Contractors Convicted of Violations of the Missouri Prevailing Wage Law

<u>Name of Contractor</u>	<u>Name of Officers</u>	<u>Address</u>	<u>Date of Conviction</u>	<u>Debarment Period</u>
Rycoblake Corp. Case No. 0916-CR03145 (Jackson County Cir. Ct.)		4212 SE Saddlebrook Cir Lee's Summit, MO 64082	7/13/11	7/13/11 to 7/13/12

Contractors Agreeing to Placement on the Public Works Debarment List as Part of an Agreement Relating to Criminal Pleas

<u>Name of Contractor</u>	<u>Name of Officers</u>	<u>Address</u>	<u>Date of Conviction</u>	<u>Debarment Period</u>
Rycoblake Corp.		4212 SE Saddlebrook Cir Lee's Summit, MO 64082		7/13/11 to 12/1/12
Gerald Chevalier		4212 SE Saddlebrook Cir Lee's Summit, MO 64082		7/13/11 to 12/1/12

Dated this 2 day of August 2011.


Carla Buschjost, Director

ADDITION TO STATUTORY LIST OF CONTRACTORS BARRED FROM PUBLIC WORKS PROJECTS

The following is an addition to the list of contractor(s) who have been prosecuted and convicted of violating the Missouri Prevailing Wage Law, and whose Notice of Conviction has been filed with the Secretary of State pursuant to Section 290.330, RSMo. Under this statute, no public body is permitted to award a contract, directly or indirectly, for public works (1) to Mr. Saxon W. Johnson, (2) to any other contractor or subcontractor that is owned, operated or controlled by Mr. Saxon W. Johnson including The Tile Doctor or (3) to any other simulation of Mr. Saxon W. Johnson or of The Tile Doctor for a period of one year, or until September 2, 2012.

<u>Name of Contractor</u>	<u>Name of Officers</u>	<u>Address</u>	<u>Date of Conviction</u>	<u>Debarment Period</u>
Saxon W. Johnson DBA The Tile Doctor Case No. 10CA-CR01318 Cass County Cir. Ct.		10724 Haskins Ct Shawnee Mission, KS 66210	9/2/2011	9/2/2011-9/2/2012

Dated this 13 day of September 2011.


Carla Buschjost, Director

ADDITION TO STATUTORY LIST OF CONTRACTORS BARRED FROM PUBLIC WORKS PROJECTS

The following is an addition to the list of contractor(s) who have been prosecuted and convicted of violating the Missouri Prevailing Wage Law, and whose Notice of Conviction has been filed with the Secretary of State pursuant to Section 290.330, RSMo. Under this statute, no public body is permitted to award a contract, directly or indirectly, for public works (1) to Mr. Larry G. McElroy, (2) to any other contractor or subcontractor that is owned, operated or controlled by Mr. Larry G. McElroy including Blackhawk or (3) to any other simulation of Mr. Larry G. McElroy or of Blackhawk Electric for a period of one year, or until December 27, 2012.

<u>Name of Contractor</u>	<u>Name of Officers</u>	<u>Address</u>	<u>Date of Conviction</u>	<u>Debarment Period</u>
Larry G. McElroy DBA Blackhawk Electric Case No. 11CG-CR01157 Cape Girardeau County Cir. Ct.		254 E. Lake Dr., PO Box 248 Cape Girardeau, MO 63701	12/27/2011	12/27/2011-12/27/2012

Dated this 26 day of January, 2012.


 Carla Buschjost, Director

ADDITION TO STATUTORY LIST OF CONTRACTORS BARRED FROM PUBLIC WORKS PROJECTS

The following is an addition to the list of contractor(s) who have been prosecuted and convicted of violating the Missouri Prevailing Wage Law, and whose Notice of Conviction has been filed with the Secretary of State pursuant to Section 290.330, RSMo. Under this statute, no public body is permitted to award a contract, directly or indirectly, for public works (1) to Mr. Norman Bass, (2) to any other contractor or subcontractor that is owned, operated or controlled by Mr. Norman Bass including Municipal Construction Incorporated or (3) to any other simulation of Mr. Norman Bass or of Municipal Construction Incorporated for a period of one year, or until February 1, 2013.

<u>Name of Contractor</u>	<u>Name of Officers</u>	<u>Address</u>	<u>Date of Conviction</u>	<u>Debarment Period</u>
Norman Bass DBA Municipal Construction Incorporated Case No. 12SO-CR00103 Scott County Cir. Ct.		10150 Hawthorne Ridge Goodrich, MI 48438	2/01/12	2/01/2012-2/01/2013

Dated this 17 day of February, 2012.



Carla Buschjost, Director

The Secretary of State is required by sections 347.141 and 359.481, RSMo 2000, to publish dissolutions of limited liability companies and limited partnerships. The content requirements for the one-time publishing of these notices are prescribed by statute. This listing is published pursuant to these statutes. We request that documents submitted for publication in this section be submitted in camera ready 8 1/2" x 11" manuscript by email to dissolutions@sos.mo.gov.

**NOTICE OF WINDING UP
TO ALL CREDITORS OF AND CLAIMANTS AGAINST
MOUND COMPANY, L.L.C.**

Mound Company, L.L.C., a Missouri limited liability company, filed a Notice of Winding Up on June 5, 2012. Any claims against the company may be sent to Mr. Dan Shapiro, 13 Pine Island Road, Hilton Head Island, SC 29928. Each claim must include the name, address, and telephone number of the claimant, the dates of occurrence of events upon which the claim is based and a brief description of the basis for the claim or the nature of the debt, the amount of the claim and whether the claim is secured, and, if so, the nature of the security. Any claim against Mound Company, L.L.C. will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the publication of this notice.

Rule Changes Since Update to Code of State Regulations

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*, citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year—30 (2005) and 31 (2006). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule, N.A. indicates not applicable, RAN indicates a rule action notice, RUC indicates a rule under consideration, and F indicates future effective date.

Rule Number	Agency	Emergency	Proposed	Order	In Addition
1 CSR 10	OFFICE OF ADMINISTRATION State Officials' Salary Compensation Schedule				35 MoReg 1815
	DEPARTMENT OF AGRICULTURE				
2 CSR 30-2.020	Animal Health		37 MoReg 907		
2 CSR 70-10.025	Plant Industries		This Issue		
2 CSR 70-10.075	Plant Industries		This Issue		
2 CSR 70-25.065	Plant Industries		37 MoReg 571	This Issue	
2 CSR 70-30.110	Plant Industries		37 MoReg 571	This Issue	
2 CSR 70-30.115	Plant Industries		37 MoReg 572	This Issue	
2 CSR 80-1.010	State Milk Board		37 MoReg 573	This Issue	
2 CSR 80-2.010	State Milk Board		37 MoReg 505R 37 MoReg 505	37 MoReg 1093R 37 MoReg 1093	
2 CSR 80-2.020	State Milk Board		37 MoReg 573	This Issue	
2 CSR 80-2.030	State Milk Board		37 MoReg 573	This Issue	
2 CSR 80-2.040	State Milk Board		37 MoReg 574	This Issue	
2 CSR 80-2.050	State Milk Board		37 MoReg 574	This Issue	
2 CSR 80-2.060	State Milk Board		37 MoReg 575	This Issue	
2 CSR 80-2.070	State Milk Board		37 MoReg 575	This Issue	
2 CSR 80-2.080	State Milk Board		37 MoReg 577	This Issue	
2 CSR 80-2.091	State Milk Board		37 MoReg 577	This Issue	
2 CSR 80-2.101	State Milk Board		37 MoReg 578	This Issue	
2 CSR 80-2.110	State Milk Board		37 MoReg 578	This Issue	
2 CSR 80-2.121	State Milk Board		37 MoReg 578	This Issue	
2 CSR 80-2.130	State Milk Board		37 MoReg 579	This Issue	
2 CSR 80-2.141	State Milk Board		37 MoReg 579	This Issue	
2 CSR 80-2.151	State Milk Board		37 MoReg 580	This Issue	
2 CSR 80-2.161	State Milk Board		37 MoReg 580	This Issue	
2 CSR 80-2.170	State Milk Board		37 MoReg 581	This Issue	
2 CSR 80-2.180	State Milk Board		37 MoReg 581	This Issue	
2 CSR 80-4.010	State Milk Board		37 MoReg 581	This Issue	
2 CSR 80-5.010	State Milk Board		37 MoReg 1089		
2 CSR 90-10	Weights and Measures				This Issue
2 CSR 90-10.001	Weights and Measures		This Issue		
2 CSR 90-10.011	Weights and Measures		This Issue		
2 CSR 90-10.012	Weights and Measures		This Issue		
2 CSR 90-10.013	Weights and Measures		This Issue		
2 CSR 90-10.014	Weights and Measures		This Issue		
2 CSR 90-10.020	Weights and Measures		This Issue		
2 CSR 90-10.040	Weights and Measures		This Issue		
2 CSR 90-10.090	Weights and Measures		This Issue		
2 CSR 90-10.120	Weights and Measures		This Issue		
	DEPARTMENT OF CONSERVATION				
3 CSR 10-4.110	Conservation Commission		37 MoReg 1005		
3 CSR 10-5.222	Conservation Commission		37 MoReg 1005		
3 CSR 10-6.415	Conservation Commission		37 MoReg 582	37 MoReg 1042	
3 CSR 10-7.431	Conservation Commission		37 MoReg 1006		
3 CSR 10-7.433	Conservation Commission		N.A.	37 MoReg 1042	
			This Issue		
3 CSR 10-7.435	Conservation Commission		N.A.	37 MoReg 1042	
3 CSR 10-7.440	Conservation Commission		N.A.	This Issue	
3 CSR 10-7.455	Conservation Commission		37 MoReg 1006		37 MoReg 118
3 CSR 10-11.120	Conservation Commission		37 MoReg 582	37 MoReg 1043	
3 CSR 10-11.180	Conservation Commission		37 MoReg 583	37 MoReg 1043	
3 CSR 10-12.109	Conservation Commission		37 MoReg 583	37 MoReg 1043	
3 CSR 10-12.110	Conservation Commission		37 MoReg 583	37 MoReg 1043	
3 CSR 10-12.125	Conservation Commission		37 MoReg 584	37 MoReg 1043	
	DEPARTMENT OF ECONOMIC DEVELOPMENT				
4 CSR 240-20.065	Public Service Commission		37 MoReg 315	37 MoReg 1044	
4 CSR 240-31.010	Public Service Commission	37 MoReg 1003	37 MoReg 1007		
	DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION				
5 CSR 20-100.200	Division of Learning Services		37 MoReg 507	This Issue	
5 CSR 20-100.250	Division of Learning Services		37 MoReg 333	37 MoReg 1052	
5 CSR 20-400.150	Division of Learning Services		37 MoReg 509		
5 CSR 20-400.160	Division of Learning Services		37 MoReg 509		
5 CSR 20-400.170	Division of Learning Services		37 MoReg 510		
5 CSR 20-400.180	Division of Learning Services		37 MoReg 510		
5 CSR 20-400.190	Division of Learning Services		37 MoReg 511		
5 CSR 20-400.200	Division of Learning Services		37 MoReg 511		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
5 CSR 20-400.250	Division of Learning Services		37 MoReg 511		
5 CSR 20-400.260	Division of Learning Services		37 MoReg 512		
5 CSR 20-400.280	Division of Learning Services		37 MoReg 512		
5 CSR 20-500.330	Division of Learning Services		37 MoReg 908		
5 CSR 30-261.025	Division of Financial and Administrative Services		37 MoReg 912		
5 CSR 50-378.100	Division of School Improvement		37 MoReg 97R	37 MoReg 924R	
5 CSR 50-380.010	Division of School Improvement		37 MoReg 97R	37 MoReg 924R	
5 CSR 50-390.010	Division of School Improvement		37 MoReg 97R	37 MoReg 924R	
DEPARTMENT OF TRANSPORTATION					
7 CSR 10-25.010	Missouri Highways and Transportation Commission				37 MoReg 976 37 MoReg 1061 37 MoReg 1106
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS					
8 CSR 10-3.010	Division of Employment Security		37 MoReg 679		
8 CSR 10-5.030	Division of Employment Security		37 MoReg 334	37 MoReg 975	
DEPARTMENT OF MENTAL HEALTH					
9 CSR 10-31.040	Director, Department of Mental Health		37 MoReg 335	37 MoReg 1093	
9 CSR 45-2.010	Division of Mental Retardation and Developmental Disabilities		37 MoReg 337	This Issue	
9 CSR 45-2.015	Division of Mental Retardation and Developmental Disabilities		37 MoReg 352	This Issue	
9 CSR 45-2.017	Division of Mental Retardation and Developmental Disabilities		37 MoReg 355	This Issue	
9 CSR 45-2.020	Division of Mental Retardation and Developmental Disabilities		37 MoReg 377	This Issue	
DEPARTMENT OF NATURAL RESOURCES					
10 CSR 10-2.385	Air Conservation Commission		36 MoReg 2520	37 MoReg 924	
10 CSR 10-5.381	Air Conservation Commission		37 MoReg 955		
10 CSR 10-5.385	Air Conservation Commission		36 MoReg 2521	37 MoReg 925	
10 CSR 10-6.060	Air Conservation Commission		37 MoReg 379	This Issue	
10 CSR 10-6.065	Air Conservation Commission		37 MoReg 383	This Issue	
10 CSR 10-6.070	Air Conservation Commission		37 MoReg 966		
10 CSR 10-6.075	Air Conservation Commission		37 MoReg 968		
10 CSR 10-6.080	Air Conservation Commission		37 MoReg 971		
10 CSR 10-6.260	Air Conservation Commission		37 MoReg 388	This Issue	
10 CSR 10-6.410	Air Conservation Commission		37 MoReg 392	This Issue	
10 CSR 20-6.100	Clean Water Commission		36 MoReg 2906R 36 MoReg 2906 37 MoReg 393R 37 MoReg 394		
10 CSR 140-2	Division of Energy				37 MoReg 1062
10 CSR 140-8.010	Division of Energy		37 MoReg 513	37 MoReg 1093	
DEPARTMENT OF PUBLIC SAFETY					
11 CSR 10-12.010	Adjutant General (<i>Changed to 11 CSR 30-13.010</i>)		37 MoReg 152	37 MoReg 1053	
11 CSR 10-12.020	Adjutant General (<i>Changed to 11 CSR 30-13.020</i>)		37 MoReg 152	37 MoReg 1053	
11 CSR 10-12.030	Adjutant General (<i>Changed to 11 CSR 30-13.030</i>)		37 MoReg 153	37 MoReg 1053	
11 CSR 10-12.040	Adjutant General (<i>Changed to 11 CSR 30-13.040</i>)		37 MoReg 153	37 MoReg 1053	
11 CSR 10-12.050	Adjutant General (<i>Changed to 11 CSR 30-13.050</i>)		37 MoReg 153	37 MoReg 1053	
11 CSR 10-12.060	Adjutant General (<i>Changed to 11 CSR 30-13.060</i>)		37 MoReg 154	37 MoReg 1053	
11 CSR 30-12.010	Office of the Director	37 MoReg 93	37 MoReg 98	37 MoReg 1052	
11 CSR 30-13.010	Office of the Director (<i>Changed from 11 CSR 10-12.010</i>)		37 MoReg 152	37 MoReg 1053	
11 CSR 30-13.020	Office of the Director (<i>Changed from 11 CSR 10-12.020</i>)		37 MoReg 152	37 MoReg 1053	
11 CSR 30-13.030	Office of the Director (<i>Changed from 11 CSR 10-12.030</i>)		37 MoReg 153	37 MoReg 1053	
11 CSR 30-13.040	Office of the Director (<i>Changed from 11 CSR 10-12.040</i>)		37 MoReg 153	37 MoReg 1053	
11 CSR 30-13.050	Office of the Director (<i>Changed from 11 CSR 10-12.050</i>)		37 MoReg 153	37 MoReg 1053	
11 CSR 30-13.060	Office of the Director (<i>Changed from 11 CSR 10-12.060</i>)		37 MoReg 154	37 MoReg 1053	
11 CSR 30-13.070	Office of the Director		37 MoReg 155	37 MoReg 1054	
11 CSR 30-13.080	Office of the Director		37 MoReg 156	37 MoReg 1054	
11 CSR 30-13.090	Office of the Director		37 MoReg 156	37 MoReg 1054	
11 CSR 30-13.100	Office of the Director		37 MoReg 156	37 MoReg 1054	
11 CSR 30-13.110	Office of the Director		37 MoReg 157	37 MoReg 1054	
11 CSR 45-5.181	Missouri Gaming Commission		37 MoReg 679		
11 CSR 45-5.185	Missouri Gaming Commission		37 MoReg 407	37 MoReg 1054	
11 CSR 45-8.130	Missouri Gaming Commission		37 MoReg 408	37 MoReg 1055	
11 CSR 45-9.020	Missouri Gaming Commission		37 MoReg 912		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
11 CSR 45-9.106	Missouri Gaming Commission		37 MoReg 410	37 MoReg 1055	
11 CSR 45-9.120	Missouri Gaming Commission		37 MoReg 410	37 MoReg 1056	
DEPARTMENT OF SOCIAL SERVICES					
13 CSR 40-2.395	Family Support Division		37 MoReg 517		
13 CSR 40-2.400	Family Support Division		This Issue		
13 CSR 40-2.410	Family Support Division		This Issue		
13 CSR 40-2.420	Family Support Division		This Issue		
13 CSR 40-2.430	Family Support Division		This Issue		
13 CSR 40-2.440	Family Support Division		This Issue		
13 CSR 40-2.450	Family Support Division		This Issue		
13 CSR 70-3.240	MO HealthNet Division		37 MoReg 106	37 MoReg 926	
13 CSR 70-10.016	MO HealthNet Division		This Issue		
13 CSR 70-10.110	MO HealthNet Division	This Issue	This Issue		
13 CSR 70-10.160	MO HealthNet Division		37 MoReg 441	37 MoReg 1056	
13 CSR 70-15.010	MO HealthNet Division	This Issue	This Issue		
13 CSR 70-15.110	MO HealthNet Division	This Issue	This Issue		
13 CSR 70-15.160	MO HealthNet Division	This Issue	This Issue		
13 CSR 70-15.220	MO HealthNet Division	This Issue	37 MoReg 681		
ELECTED OFFICIALS					
15 CSR 30-51.100	Secretary of State		37 MoReg 912		
15 CSR 30-51.180	Secretary of State		37 MoReg 913		
15 CSR 40-3.020	State Auditor		37 MoReg 518	37 MoReg 1094	
15 CSR 40-3.030	State Auditor		37 MoReg 518	37 MoReg 1094	
15 CSR 40-5.010	State Auditor		37 MoReg 519R	37 MoReg 1094R	
15 CSR 50-4.030	Treasurer	37 MoReg 731	37 MoReg 733		
15 CSR 60-13.060	Attorney General		37 MoReg 1008		
RETIREMENT SYSTEMS					
16 CSR 10-3.020	The Public School Retirement System of Missouri		37 MoReg 914		
16 CSR 10-4.012	The Public School Retirement System of Missouri		This Issue		
16 CSR 10-5.010	The Public School Retirement System of Missouri		This Issue		
16 CSR 10-6.030	The Public School Retirement System of Missouri		37 MoReg 915		
16 CSR 10-6.045	The Public School Retirement System of Missouri		This Issue		
16 CSR 10-6.060	The Public School Retirement System of Missouri		This Issue		
16 CSR 20-2.083	Missouri Local Government Employees' Retirement System (LAGERS)		37 MoReg 915R		
16 CSR 50-2.010	The County Employees' Retirement Fund		37 MoReg 165	37 MoReg 926	
16 CSR 50-2.160	The County Employees' Retirement Fund		37 MoReg 165	37 MoReg 927	
16 CSR 50-3.010	The County Employees' Retirement Fund		37 MoReg 165	37 MoReg 927	
BOARDS OF POLICE COMMISSIONERS					
17 CSR 20-2.015	St. Louis Board of Police Commissioners		37 MoReg 915		
17 CSR 20-2.025	St. Louis Board of Police Commissioners		37 MoReg 916		
17 CSR 20-2.035	St. Louis Board of Police Commissioners		37 MoReg 916		
17 CSR 20-2.055	St. Louis Board of Police Commissioners		37 MoReg 917		
17 CSR 20-2.065	St. Louis Board of Police Commissioners		37 MoReg 918		
17 CSR 20-2.085	St. Louis Board of Police Commissioners		37 MoReg 918		
17 CSR 20-2.105	St. Louis Board of Police Commissioners		37 MoReg 919		
17 CSR 20-2.125	St. Louis Board of Police Commissioners		37 MoReg 920		
17 CSR 20-3.015	St. Louis Board of Police Commissioners		37 MoReg 921		
17 CSR 20-3.025	St. Louis Board of Police Commissioners		37 MoReg 922		
17 CSR 20-3.055	St. Louis Board of Police Commissioners		37 MoReg 922		
17 CSR 20-3.085	St. Louis Board of Police Commissioners		37 MoReg 923		
17 CSR 20-3.105	St. Louis Board of Police Commissioners		37 MoReg 923		
DEPARTMENT OF HEALTH AND SENIOR SERVICES					
19 CSR 20-26.030	Division of Community and Public Health		37 MoReg 519R		
19 CSR 20-26.040	Division of Community and Public Health		37 MoReg 519		
19 CSR 25-30.011	State Public Health Laboratory		37 MoReg 1009		
19 CSR 25-30.021	State Public Health Laboratory		37 MoReg 1010		
19 CSR 25-30.031	State Public Health Laboratory		37 MoReg 1015		
19 CSR 25-30.041	State Public Health Laboratory		37 MoReg 1024		
19 CSR 25-30.050	State Public Health Laboratory		37 MoReg 1027		
19 CSR 25-30.051	State Public Health Laboratory		37 MoReg 1027		
19 CSR 25-30.060	State Public Health Laboratory		37 MoReg 1030		
19 CSR 25-30.070	State Public Health Laboratory		37 MoReg 1040		
19 CSR 25-30.080	State Public Health Laboratory		37 MoReg 1040		
19 CSR 30-40.365	Division of Regulation and Licensure		37 MoReg 523		
19 CSR 30-81.015	Division of Regulation and Licensure		37 MoReg 523R		
19 CSR 30-84.030	Division of Regulation and Licensure		37 MoReg 684		
19 CSR 30-85.022	Division of Regulation and Licensure		37 MoReg 585		
19 CSR 30-86.022	Division of Regulation and Licensure		37 MoReg 592		
19 CSR 30-86.043	Division of Regulation and Licensure		37 MoReg 524		
19 CSR 30-86.047	Division of Regulation and Licensure		37 MoReg 525		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
19 CSR 30-88.020	Division of Regulation and Licensure		37 MoReg 602		
19 CSR 60-50	Missouri Health Facilities Review Committee				37 MoReg 1107 This Issue
DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION					
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4 CSR 240-31.010	Definitions37 MoReg 1003 . . .	June 1, 2012Feb. 28, 2013
Department of Social Services			
MO HealthNet Division			
13 CSR 70-10.110	Nursing Facility Reimbursement Allowance	This Issue	July 1, 2012Dec. 28, 2012
13 CSR 70-15.010	Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Services Reimbursement Methodology	This Issue	July 1, 2012Dec. 28, 2012
13 CSR 70-15.110	Federal Reimbursement Allowance (FRA)	This Issue	July 1, 2012Dec. 28, 2012
13 CSR 70-15.160	Prospective Outpatient Hospital Services Reimbursement Methodology	This Issue	July 1, 2012Dec. 28, 2012
13 CSR 70-15.220	Disproportionate Share Hospital Payments	This Issue	July 1, 2012Dec. 28, 2012
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15 CSR 50-4.030	Missouri MOST 529 Matching Grant Program37 MoReg 731 . . .	April 15, 2012Jan. 23, 2013
Department of Insurance, Financial Institutions and Professional Registration			
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20 CSR 2220-4.010	General Fees	Next Issue	July 31, 2012Feb. 28, 2013

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12-06	Activates the Missouri State Emergency Operations Center and directs the State Emergency Management Agency, State Fire Marshall, Adjutant General, and such other agencies to coordinate with local authorities affected by fire danger due to the prolonged period of record heat and low precipitation	June 29, 2012	This Issue
12-05	Extends Executive Orders 11-06, 12-03, 11-07, 11-11, 11-14, and 12-04 until June 1, 2012	March 13, 2012	37 MoReg 569
12-04	Activates the state militia in response to severe weather that began on February 28, 2012	Feb. 29, 2012	37 MoReg 503
12-03	Declares a state of emergency and directs that the Missouri State Emergency Operations Plan be activated due to the severe weather that began on February 28, 2012	Feb. 29, 2012	37 MoReg 501
12-02	Orders the transfer of all authority, powers, and duties of all remaining audit and compliance responsibilities relating to Medicaid Title XIX, SCHIP Title XXI, and Medicaid Waiver programs from the Dept. of Health and Senior Services and the Dept. of Mental Health to the Dept. of Social Services effective Aug. 28, 2012, unless disapproved within sixty days of its submission to the Second Regular Session of the 96th General Assembly	Jan. 23, 2012	37 MoReg 313
12-01	Designates members of the governor's staff to have supervisory authority over certain departments, divisions, and agencies	Jan. 23, 2012	37 MoReg 311

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11-25	Extends the declaration of emergency contained in Executive Order 11-06 (and extended by Executive Orders 11-09, 11-19, and 11-23) until March 15, 2012, unless extended in whole or part by subsequent order. Further Executive Orders 11-07, 11-11, and 11-14 are extended until March 15, 2012, unless extended in whole or part by subsequent order	Dec. 14, 2011	37 MoReg 95
11-24	Designates members of the governor's staff to have supervisory authority over certain departments, divisions, and agencies	Nov. 18, 2011	37 MoReg 5
11-23	Extends Executive Order 11-20 until October 15, 2011, and extends Executive Orders 11-06, 11-07, 11-08, 11-11, 11-14, and 11-18 until December 18, 2011	Sept. 13, 2011	36 MoReg 2157
11-22	Designates members of the governor's staff to have supervisory authority over certain departments, divisions, and agencies	July 26, 2011	36 MoReg 1979
11-21	Authorizes the Joplin Public School system to immediately begin to retrofit, equip, and furnish various buildings to house students during the 2011-2012 school year without requiring advertisements for bids	June 17, 2011	36 MoReg 1800
11-20	Extends certain terms of Executive Order 11-12 to help Missouri citizens impacted by the Joplin tornado of April 22, 2011	June 17, 2011	36 MoReg 1798
11-19	Extends certain terms of Executive Orders 11-06, 11-07, 11-08, 11-10, 11-11, 11-13, 11-14, 11-15, 11-16, and 11-18 until September 15, 2011	June 17, 2011	36 MoReg 1796
11-18	Activates the state militia in response to flooding events occurring and threatening along the Missouri River	June 8, 2011	36 MoReg 1739
11-17	Establishes the State of Missouri Resource, Recovery & Rebuilding Center in the City of Joplin in response to a tornado that struck there on May 22, 2011	June 7, 2011	36 MoReg 1737
11-16	Authorizes the Joplin Public Schools to immediately begin to retrofit and furnish warehouse and retail structures to house district programs displaced by the tornado and severe storms on May 22, 2011, without requiring advertisements for bids	June 3, 2011	36 MoReg 1735
11-15	Authorizes the Joplin Public School system to immediately rebuild, restore, and/or renovate Emerson Elementary, Kelsey Norman Elementary, Old South Middle School, and Washington Education Center without requiring advertisement for bids	June 1, 2011	36 MoReg 1594
11-14	Activates the state militia in response to a tornado that hit the City of Joplin on May 22, 2011	May 26, 2011	36 MoReg 1592
11-13	Authorizes the Joplin Public Schools system to immediately begin rebuilding and replacing the materials for three of its buildings that were destroyed in a tornado that struck on May 22, 2011, without requiring advertisement for bids	May 26, 2011	36 MoReg 1590

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11-12	Orders the director of the Department of Insurance, Financial Institutions and Professional Registration to temporarily waive, suspend, and/or modify any statute or regulation under his purview in order to best serve the interests of those citizens affected by the tornado that hit the city of Joplin on May 22, 2011	May 26, 2011	36 MoReg 1587
11-11	Orders the director of revenue to issue duplicate or replacement license, nondriver license, certificate of motor vehicle ownership, number plate, or tabs lost or destroyed as a result of the tornado that hit the city of Joplin and to waive all state fees and charges for such duplicate or replacement	May 26, 2011	36 MoReg 1585
11-10	Orders the Missouri Department of Health and Senior Services and the State Board of Pharmacy to temporarily waive certain rules and regulations to allow medical practitioners and pharmacists responding to the tornado and severe storms in Joplin to best serve the interests of public health and safety	May 24, 2011	36 MoReg 1583
11-09	Extends Executive Orders 11-06, 11-07, and 11-08 through June 20, 2011	May 20, 2011	36 MoReg 1581
11-08	Activates the state militia in response to severe weather that began on April 22	April 25, 2011	36 MoReg 1449
11-07	Gives the director of the Department of Natural Resources the authority to temporarily suspend regulations in the aftermath of severe weather that began on April 22	April 25, 2011	36 MoReg 1447
11-06	Declares a state of emergency for the state of Missouri and activates the Missouri State Emergency Operations Plan due to severe weather that began on April 22	April 22, 2011	36 MoReg 1445
11-05	Orders the Missouri Department of Transportation to assist local jurisdictions in counties that: 1) received record snowfalls; and 2) continuing snow clearance exceeds their capabilities	Feb. 4, 2011	36 MoReg 883
11-04	Activates the state militia in response to severe weather that began on January 31, 2011	Jan. 31, 2011	36 MoReg 881
11-03	Declares a state of emergency exists in the state of Missouri and directs that the Missouri State Emergency Operations Plan be activated	Jan. 31, 2011	36 MoReg 879
11-02	Extends the declaration of emergency contained in Executive Order 10-27 and the terms of Executive Order 11-01 through February 28, 2011	Jan. 28, 2011	36 MoReg 877
11-01	Gives the Director of the Department of Natural Resources the authority to temporarily suspend regulations in the aftermath of severe winter weather that began on December 30	Jan. 4, 2011	36 MoReg 705

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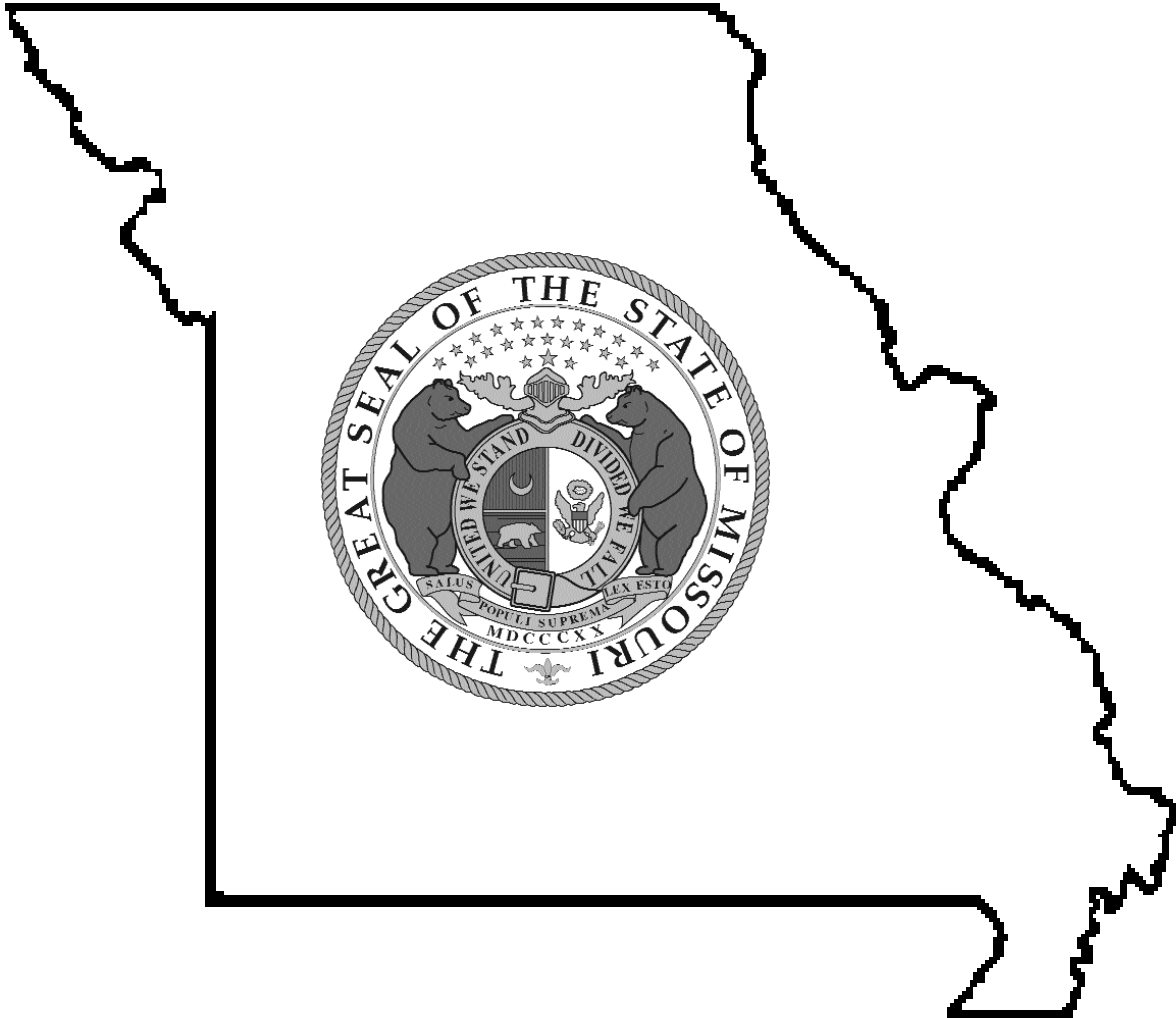
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Periodic Review of State Agency Rules and Non-Substantive Changes Provision

SB 469 and HB 1135 Truly Agreed To and Finally Passed by the 96th General Assembly, 2012 and signed by the governor will go into effect on August 28, 2012.

These bills require state agencies to periodically review all of their rules according to a schedule set out in statute. There are specific criteria that must be included in a report submitted to the Joint Committee on Administrative Rules and the Small Business Regulatory Fairness Board regarding the rule review. Failure to file the report shall result in the rule being void and of no further effect.

Also included in these bills is the authority for the secretary of state to make non-substantive changes in the *Code of State Regulations* per the filing of a request by a state agency with the Joint Committee on Administrative Rules and the secretary of state concurrently. A notice of the non-substantive change will be published in the *Missouri Register* after which the rule will be updated in the *Code of State Regulations*. Non-substantive changes include changes in department or division name information in response to statutory changes or executive orders, or to changes in state agency address, state agency telephone numbers, email addresses, or state agency website addresses.